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The Gazette of India

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EXTRAORDINARY

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इस भाग में भिन्न पाठ संख्या की जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 16th March, 1990:—

BILL No. 73 OF 1989

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1989.

Short title
and
commencement.

(2) It shall come into force at once.

2. In article 81 of the Constitution, in clause (3), the proviso shall be omitted.

Amend-
ment of
article 81.

3. In article 82 of the Constitution, the third proviso shall be omitted.

Amend-
ment of
article 82.

4. In article 170 of the Constitution,—

Amend-
ment of
article 170.

(i) in clause (2), the proviso to the *Explanation* shall be omitted; and

(ii) in clause (3), the third proviso shall be omitted.

STATEMENT OF OBJECTS AND REASONS

As per the provisions of articles 81, 82 and 170 of the Constitution, readjustment of territorial constituencies cannot be made till 2,000 A.D. and as such the present number of seats in the House of the People and the State Assemblies will be maintained. A need has arisen to reorganise the constituencies with the increase in the population and the number of voters. The Bill seeks to restore to Parliament the power to readjust the territorial constituencies by such authority as the Parliament may by law determine according to the last preceding census before the general elections to the House of the People and State Assemblies are held.

Hence this Bill.

NEW DELHI;

HARISH RAWAT

December 13, 1989.

BILL NO. 74 OF 1989

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1989.
2. After article 38 of the Constitution, the following article shall be inserted, namely:—

“38A. The State shall take steps to reserve twenty-five per cent. of posts and appointments to an office under the Government of, or any local or other authority within, a State or Union territory, for people belonging to economically weaker sections of society and shall ensure that the reserved posts are filled up from amongst them.”

Short title.

Insertion of new article 38A.

Reservation of posts for economically weaker sections of society.

3. After article 45 of the Constitution, the following article shall be inserted, namely:—

“45A. The State shall endeavour to provide free education from primary levels onwards, which shall include higher, technical, vocational, literary, professional education, and also for scholarships, free hostel facilities, books, etc. to people belonging to economically weaker sections of society.”

Insertion of new article 45A.

Provision of free education to economically weaker sections of society.

4. In article 47 of the Constitution, after the words “the State shall endeavour”, the words “to provide free medical facilities including all medicines, hospitalisation charges, etc. to people belonging to economically weaker sections of society and” shall be inserted.

Amendment of article 47.

STATEMENT OF OBJECTS AND REASONS

It is the duty of the State to provide economic and social security to the people who live below the poverty line. Their condition is very miserable and inhuman. They live in the slums in urban areas and as landless labourers in rural areas. Their plight and woes are too many. In order to ensure that the benefits of development and progress reach everyone in India, social and economic security is very essential to the economically weaker sections of the society.

Hence this Bill.

NEW DELHI;

December 13, 1989.

HARISH RAWAT

BILL No. 76 OF 1889

A Bill to establish a Commission to fix reasonable remunerative prices of the agricultural produce and for matters connected therewith.

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Agricultural Produce Prices Fixation Act, 1989.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(i) “agricultural produce” means and includes paddy, wheat, pulses, sugar-cane, cotton, oil-seeds, fruits, jute and such other agricultural or horticultural produce which is used for consumption by the human beings or for the making of fibre or for any medicinal purpose; and

(ii) “Commission” means Agricultural Prices Commission established under section 3.

Short title,
extent
and
commencement.

Definitions.

Establishment of Agricultural Prices Commission.

3. (1) The Central Government shall, by notification, in the Official Gazette, establish a Commission to be known as "Agricultural Prices Commission", with its headquarters at New Delhi.

(2) The Commission shall consist of—

(a) a Chairman to be appointed by the Central Government;

(b) one member from each zonal office of the Commission;

(c) one member from each State Government and Union territory administration;

(d) three representatives of agriculturists;

(e) one representative of agricultural labour; and

(f) one representative of agricultural produce processing units.

Setting up of zonal offices.

4. (1) The Commission shall set up one zonal office each in the northern, western, eastern and southern parts of the country comprising of such States and Union territories as may be determined by the Commission.

(2) The zonal office shall consist of—

(i) a Chairman to be appointed by the Central Government;

(ii) one member from each State or Union territory within its jurisdiction to be nominated by the concerned State Government or the Union territory administration, as the case may be.

(iii) three representatives of agriculturists;

(iv) two persons representing financial institutions of whom one shall be from agricultural Cooperative Banks; and

(v) one member representing fertilizer industry.

Commission to fix remunerative prices.

5. The Commission shall fix and declare remunerative prices of agricultural produce before every sowing season.

Duty of zonal offices.

6. (1) It shall be the duty of each zonal office to recommend to the Commission the remunerative prices of agricultural produce in respect of their jurisdiction.

(2) Each zonal office, before recommending the remunerative prices shall take into account all relevant factors but in particular the following, namely:—

(i) the average capital investment made by agriculturists;

(ii) the average cost of land;

(iii) the average labour charges;

(iv) the expenditure on insurance, if any;

(v) interest on loans borrowed for the purpose of agriculture;

(vi) maintenance cost of the farm;

- (vii) any concession or rebate provided by Government in relation to agricultural produce;
- (viii) the prevailing price of agricultural produce in the open market;
- (ix) climatic conditions and incidence of natural calamities like floods, drought, etc.;
- (x) the average monthly household expenditure incurred by an agriculturist including expenditure on education, health and accommodation, etc.; and
- (xi) any other incidental expenditure.

7. The Commission shall give wide publicity to the remunerative prices fixed for agricultural produce through radio and television network and newspapers.

Publication of prices of agricultural produce.

8. The Central Government shall purchase the agricultural produce from the agriculturists at the price fixed by the Commission through its agencies like Food Corporation of India, if the agriculturists fails to sell his produce in the open market.

Central Government to purchase agricultural produce.

9. (1) Any agriculturist may file an application with the Central Government for reviewing the remunerative price fixed by the Commission for any agricultural produce, within thirty days of the declaration of the price, if the agriculturist is not satisfied with the price fixed.

Review of remunerative price fixed by the Commission.

(2) The Central Government shall give its decision on the application within fifteen days of the filing of the application.

10. The agriculturist, if not satisfied with the decision of the Central Government on his review application under section 9, shall have the right to file an appeal against the order of the Central Government in the High Court of the State in whose jurisdiction his agricultural land is situated.

Right to appeal.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

There has been great discontent amongst the farmers regarding the remunerative prices fixed for agricultural produce by the Commission for Agricultural Costs and Prices. The prices fixed by the said Commission are far below the expectation of farmers and also below the prevailing prices of the produce in the open market.

Moreover, the Central Government is not bound by the price recommended by the Commission for Agricultural Costs and Prices inasmuch as the said Commission does not have a legal sanction. Therefore, it is proposed to set up a statutory Agricultural Prices Commission which would fix the remunerative prices for agricultural produce.

While fixing the remunerative prices for agricultural produce, the factors like increase in prices of inputs, increased wages to labour, increase in costs of necessary items for farming and other incidental expenditure incurred by a farmer for the welfare of his family should also be taken into consideration.

Moreover, there is no justification in fixing the price for a particular agricultural produce throughout the country as climatic conditions and soil structure are different in various parts of the country. The prices of agricultural produce should, therefore, be fixed separately considering the yield, availability of irrigation potentiality, climatic conditions and other factors. It is, therefore, proposed that the country be divided into four zones for the purpose of fixing remunerative price for agricultural produce.

Many times, the farmers are not aware of the prices fixed by the Central Government for various agricultural produce. Therefore, it has been proposed that the prices notified by the Central Government should be given wide publicity through radio and television net-work, newspapers, etc.

It is also proposed that a farmer, if aggrieved by the price fixed by the Agricultural Prices Commission, may file an application for review of the same as there is no provision for the same at present.

Hence this Bill.

NEW DELHI;
December 15, 1989.

UTTAM RATHOD

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall establish Agricultural Prices Commission consisting of a Chairman to be appointed by the Central Government and other members. Clause 4 of the Bill provides that the Agricultural Prices Commission shall set up four zonal offices in the country and each zonal office shall consist of a Chairman to be appointed by the Central Government and other members. Clause 7 provides that the Agricultural Prices Commission shall, after having fixed the remunerative prices of agricultural produce, give publicity through radio and television net work and newspapers. Clause 8 provides that the Central Government shall purchase agricultural produce from the farmers at the rates fixed by the Commission through its agencies like the Food Corporation of India, etc. which are already in existence and doing the work of purchasing agricultural produce from the farmers in case the farmers are not able to sell their produce in the open market. The Bill, if enacted, would therefore, involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one crore is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives the Central Government power to make rules to carry out the purposes of the Bill. The delegation of legislative power is of a normal character.

BILL NO. 88 OF 1989

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Fortyeth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1989.
2. After article 16 of the Constitution, the following article shall be inserted, namely:—

Short title.

Insertion of new article 16A.

Right to work.

“16A. (1) All adult citizens shall have the right to work, that is the right to guaranteed employment and payment for their work in accordance with its quantity and quality, so as to ensure them adequate means of livelihood.

(2) Where a citizen is not provided with work to enable him to earn his livelihood, the State shall render him assistance with unemployment allowance.”.

Amend-
ment of
article
19.

3. In article 19 of the Constitution, in clause (1), after sub-clause (g), the following sub-clauses shall be added, namely:—

“(h) to public assistance in case of old age, sickness and disablement, and in other cases of undeserved want;

(i) to education upto such level as may be fixed by law.”.

Omission
of article
41.

4. Article 41 of the Constitution shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Article 41 of the Constitution provides that the State shall, within the limits of its economic capacity and development, make effective provision for securing its citizens the right to work, to education and to public assistance in cases of employment, old age, sickness and disablement, and in other cases of undeserved want. This article has, however, not achieved its desired purpose.

Unemployment has assumed alarming proportions. In a Welfare State, it is the duty of the Government to provide work for all its citizens. The State should, on failing to procure adequate means of livelihood to any of its citizens, render assistance to them in the form of unemployment allowance.

The ambit of article 19 has to be extended to ensure for our citizens freedom from want and illiteracy. Provision for relief in case of undeserved want is a common feature of modern States and in many other countries much progress has been made in this direction. In spite of the directive principles, nothing substantial has been done till now.

The Bill seeks to achieve the above objectives.

NEW DELHI;
December 18, 1989.

G. M. BANATWALLA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for rendering assistance to unemployed citizens in the form of unemployment allowance.

Clause 3 provides for public assistance in cases of old age, sickness and disablement, and in other cases of undeserved want.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is difficult to make any precise estimate of expenditure. However, a recurring expenditure of rupees one hundred crores is likely to be involved per annum.

A non-recurring expenditure of rupees five lakhs is also likely to be involved.

BILL NO. 85 OF 1989

A Bill to provide the Indian citizens living abroad with the right to vote in elections to the House of the People and the Legislative Assemblies of States.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Citizens Abroad (Voting Right at Elections) Act, 1989.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Notwithstanding anything contained in Part IIB and Part III of the Representation of the People Act, 1950, and in any other law for the time being in force,—

(i) all the Indian citizens who are living abroad and who retain their Indian citizenship shall have the right to exercise their franchise in elections to the House of the People and the Legislative Assemblies of States in the country;

Short title,
extent
and com-
mence-
ment.

Right to
vote to
Indian
citizens
living
abroad
and
creation
of election
machinery.

(ii) the names of such Indian citizens living abroad shall continue to be registered in the electoral rolls of the constituency in which they were residing before leaving the country; and

(iii) the Election Commission of India shall make provision, for and create an adequate machinery to enable such Indian Citizens living abroad to exercise their franchise at every election to the House of the People and the Legislative Assemblies of States.

Diplomatic
and con-
sular
officers
to help
Election
Commis-
sion of
India.

3. All diplomatic and consular officers of the Government of India shall act in aid of the Election Commission of India in the discharge of its functions under section 2.

Power
to make
rules.

4. (1) The Central Government shall make rules to carry out the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) adequate publicity before the elections are held;

(b) the date, place and manner of casting of votes;

(c) the supply of ballot papers and the transmission of used ballot papers and the counting of the votes cast.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions as aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be, of no effect, as the case may be: so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

A large number of Indian citizens live abroad for various reasons. Many also go abroad temporarily for work. They all take keen interest in Indian affairs and feel disenfranchised in the absence of any machinery to enable them to vote in elections to State Legislatures as well as to Parliament.

This Bill intends to remove the genuine grievance of the Indian citizens residing abroad by providing for and creating an adequate machinery to enable them to vote at the said elections.

NEW DELHI;
December 18, 1989.

G. M. BANATWALLA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the creation of machinery to enable Indians living abroad to vote at elections held in India from time to time. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve an expenditure of about rupees two lakhs per annum and non-recurring expenditure of about rupees fifty thousand.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill provides that the Central Government shall make rules for carrying out the purposes of the Act. These rules will relate to matters of detail only. The delegation of legislative powers is of a normal character.

BILL NO. 77 OF 1989

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1989. Short title.
2. In article 324 of the Constitution, after clause (6), the following clause shall be inserted, namely :—

“(7) On ceasing to hold office—
 - (a) the Chief Election Commissioner shall be ineligible for further employment or office either under the Government of India or under the Government of a State;
 - (b) any other Election Commissioner shall be eligible for appointment as the Chief Election Commissioner, but shall not be eligible for any other employment or office either under the Government of India or under the Government of a State;
 - (c) a Regional Commissioner shall be eligible for appointment as an Election Commissioner or the Chief Election Commissioner, but shall not be eligible for any other employment either under the Government of India or under the Government of a State:

Provided that the Chief Election Commissioner or any other Election Commissioner or a Regional Commissioner shall, on expiration of his term of office, be eligible for re-appointment to that office.”.

STATEMENT OF OBJECTS AND REASONS

Unlike the Chairman and members of the Union Public Service Commission and the Comptroller and Auditor-General, the Constitution does not lay down any restrictions on the eligibility of the Chief Election Commissioner, other Election Commissioners and the Regional Commissioners for any further office or employment under the Central or any State Government after they cease to hold office. Though, a sound convention had always been followed that the Chief Election Commissioner should not be appointed to any governmental office after retirement, there have been instances of breach of this convention as, for example, in the appointment of the Chief Election Commissioner as a Governor. This has the dangerous potency of rendering the Election Commission a suspect in the eyes of the people.

The Bill seeks to remove the lacuna in the Constitution by restricting the eligibility of the Chief Election Commissioner, other Election Commissioners and the Regional Commissioners for appointment to further office on their retirement.

NEW DELHI;

December 18, 1989

G. M. BANATWALLA

BILL No. 80 of 1989

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1989.

Short title.

2. After article 16 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 16A.

“16A. (1) All citizens shall have the right to a secure place to live.

Right to housing.

(2) Every citizen who does not have or is unable to secure a proper place to live shall be entitled to receive such a place from the State in a manner as Parliament may by law provide.”

STATEMENT OF OBJECTS AND REASONS

Housing is a basic necessity of life alongwith food and clothing. The ever increasing number of the houseless, the rising cost of housing and the acute housing shortage are generating great frustration in the society. It is, therefore, necessary to make housing a fundamental right so as to guarantee to every citizen a secure place to live with dignity.

Hence this Bill.

NEW DELHI;
December 18, 1989.

G. M. BANATWALLA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that every citizen who does not have or is unable to secure a proper place to live shall be entitled to receive such a place from the State in a manner as Parliament may by law provide. It will thus be the responsibility of the Central and the State Governments to make a house available to every citizen. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. No exact estimate can be given for the present as the total requirement of housing is not known. The estimate would also depend on the provisions of law as may be made by the Parliament.

The Bill is also likely to involve a non-recurring expenditure of about rupees one crore.

BILL NO. 6 OF 1990

A Bill further to amend the Constitution of India

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990.

Short title.

2. After article 15 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 15A.

“15A. (1) All adult citizens shall have the right to work, that is the right to guaranteed employment and payment for their work according to its quantity and quality, ensuring adequate means of livelihood.

Right to work.

(2) Any citizen who is not provided with employment shall be given an unemployment allowance till he gets a job, at a rate to be fixed by a statutory authority appointed by the Government of India.”.

Amend-
ment of
article 19.

3. In article 19 of the Constitution, in clause (1), after sub-clause (g), the following sub-clauses shall be added, namely:—

“(h) to public assistance in case of old age, sickness and physical, mental and social disablement;

(i) to education upto the secondary level.”.

Omission
of arti-
cle 41.

4. Article 41 of the Constitution shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The number of registered unemployed persons has crossed the alarming rate and if rural unregistered unemployed are taken into account the total will be about 13 crores in the whole country. Every year over 10 million job seekers are coming afresh into the employment market and a majority of them join the ranks of the unemployed. This growing unemployment is creating a sense of frustration and desperation among the youths of our country creating new social and law and order problems.

In order to meet with the explosive situation created by the unemployment, the State should come forward to take up the responsibility of securing jobs to the unemployed. However, as the number of unemployed persons is large and as it will take some time to secure jobs for them, unemployment relief may be given to them so as to keep dissatisfaction within a limit.

Our country, being a welfare State, should take up the responsibility of taking care of old, infirm and disabled by providing public assistance to them. In order to eradicate illiteracy, the State should provide education upto secondary level. These principles to be adopted by the State have yet to be given a legal sanctity and the Bill seeks to achieve the above objectives.

NEW DELHI;

December 15, 1989.

HANNAN MOLLAH.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for unemployment allowance for the jobless persons till they are provided with employment.

Clause 3 of the Bill provides for public assistance in cases of old age, sickness and disablement, and for free education upto secondary level.

The Central Government has to incur expenditure for payment of unemployment allowance, etc. in respect of Union territories. The State Governments will incur expenditure from their respective consolidated funds in implementing the provisions of the Bill. The Union Government may have to extend some financial assistance to the State Governments for this purpose.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is difficult to make any actual estimate of expenditure. However, a recurring expenditure of rupees one thousand crore is likely to be involved per annum.

A non-recurring expenditure of about one crore is also likely to be involved.

BILL No. 10 OF 1990

A Bill to provide for the regulation of production, supply and distribution of infant foods and feeding bottles with a view to the protection and promotion of breast-feeding and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Infant Foods and Feeding Bottles (Regulation of Production, Supply and Distribution) Act, 1990.

(2) It extends to the whole of India.

Short title, extent and commencement.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) In this Act, unless the context otherwise requires.—

(a) “advertisement” includes any notice, circular, label, wrapper and other document and also includes any visible representation or announcement made by means of any light, sound, smoke or gas;

Definitions.

(b) "container" means a box, bottle casket, tin, can, barrel, case, tube, receptacle, sack, wrapper or other thing in which any infant food or feeding bottle is placed or packed for sale or distribution;

(c) "feeding bottle" means any bottle used for the purpose of feeding infant foods, and includes teats and valves attached or capable of being attached to such bottle or receptacle;

(d) "health care system" means an institution or organisation engaged, either directly or indirectly, in health care for mothers, infants or pregnant women, and includes a health worker in private practice, but does not include a pharmacy or drug store;

(e) "health worker" means a person engaged in health care for mothers, infants or pregnant women;

(f) "infant food" means any food including complementary foods when marketed or otherwise represented as a partial or total replacement for mother's milk, whether or not it is suitable for such replacement;

(g) "legal" means a display of written, marked, stamped, printed or graphic matter affixed to, or appearing upon, any container;

(h) "prescribed" means prescribed by rules made under this Act.

(2) Any reference in this Act to any other enactment or any provision thereof, shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

3. No person shall,—

(a) advertise, or take part in the publication of any advertisement, for the distribution, sale or supply of infant foods or feeding bottles; or

(b) give an impression or create a belief in any manner that feeding of infant foods is close or equivalent to, or better than, mother's milk; or

(c) take part in the promotion of use or sale of infant foods or feeding bottles otherwise than in accordance with the provisions of this Act.

4. No person shall,—

(a) supply or distribute samples of infant foods or feeding bottles or gifts of utensils or other articles; or

(b) contact any pregnant woman or the mother or relative of an infant; or

(c) offer inducement of any other kind,

for the purpose of promoting the use of sale of infant foods or feeding bottles.

Prohibition of advertisements, etc. for sale of infant foods or feeding bottles.

Prohibition of incentives for the use or sale of infant foods or feeding bottles.

5. No manufacturer or distributor or his representative or agent shall donate or distribute any informational or educational equipment or material relating to infant foods or feeding bottles.

Donation of equipment or materials relating to infant foods or feeding bottles.

37 of 1954

6. (1) Without prejudice to the provisions of the Prevention of Food Adulteration Act, 1954 and the rules made thereunder, no person shall produce, supply or distribute any infant food unless every container thereof or any label affixed thereto indicates in a clear, conspicuous and in an easily readable and understandable manner the words "important notice" in capital letters in such language as may be prescribed and indicating thereunder the following particulars in the same language, namely:—

Information on containers and labels of infant foods.

- (a) a statement "mother's milk is best for your baby" in capital letters;
 - (b) a statement that infant food should be used only on the advice of a health worker as to the need for its use and the proper method of its use;
 - (c) a warning that infant food is not the sole source of nourishment of an infant;
 - (d) the instructions for its appropriate preparation and a warning against the health hazards of its inappropriate preparation;
 - (e) the ingredients used;
 - (f) the composition or analysis;
 - (g) the storage conditions required;
 - (h) the batch number and the date before which infant food is to be consumed, taking into account the climatic and storage conditions of the country;
 - (i) such other particulars as may be prescribed.
- (2) No container or label referred to in sub-section (1) shall,—
- (a) have the words "infant food" or any other words to that effect; or
 - (b) have pictures of infants; or
 - (c) have pictures or other graphic material or phrases designed to increase the saleability of infant food;
 - (d) use on it the word "humanised" or "maternalised" or any other similar word; or
 - (e) bear on it such other particulars as may be prescribed.

Educational and other materials relating to feeding of infants to contain certain particulars.

7. (1) Every educational or other material, whether audio or visual, dealing with pre-natal or post-natal care or with the feeding of an infant and intended to reach pregnant women or mothers or relatives of infants shall include clear information on,—

- (a) the benefit and superiority of breast-feeding;
- (b) the preparation for and the continuance of breast-feeding;
- (c) the harmful effects on breast-feeding due to the partial adoption of bottle feeding;
- (d) the difficulties in reverting to breast-feeding of infants after a period of feeding by infant food;
- (e) the financial and social implications in making use of infant foods and feeding bottles;
- (f) the health hazards of improper use of infant foods and feeding bottles;
- (g) such other matters as may be prescribed.

(2) No material referred to in sub-section (1) shall be utilised to promote the use of sale of infant foods or feeding bottles.

Health care system.

8. (1) No manufacturer or his representative shall provide any information or use any health care system for the display of placards or posters relating to or for the distribution of materials for the purpose of promoting the use or sale of infant foods or feeding bottles.

(2) No person who produces supplies, distributes or sells infant foods or feeding bottles shall make any payment to any person who works in the health care system for the purpose of promoting the use or sale of such foods or bottles.

(3) No person, other than a health worker, shall demonstrate feeding with infant foods to a mother of an infant or to any member of her family and such health worker shall also clearly explain to such mother or other member the hazards of improper use of infant foods and feeding bottles.

(4) (a) No person, other than an institution or organisation, engaged in health care for mothers, infants or pregnant women, shall distribute infant foods or feeding bottles to a mother who cannot resort to breast-feeding and who cannot afford to purchase infant foods or feeding bottle.

(b) No institution or organisation, other than an orphanage may accept donations of infant foods or feeding bottles from any person or purchase the same at a price lower than their sale price.

Provided that it shall not amount to inducement if such donations or purchases are procured from a government sponsored programme for the promotion of adequate nutrition.

(c) Where any institution or organisation referred to in clause (a) intends to use the infant foods or feeding bottles so donated or purchased for distribution outside such institution or organisation to a mother of an infant who cannot resort to breast-feeding or who cannot afford to purchase the same, the institution or organisation shall continue such distribution as long as such infant needs them.

(d) Where any person who donates infant foods or feeding bottles or sells the same at a price lower than their sale price to any institution or organisation referred to in clause (a) for distribution outside such institution or organisation or to a mother of an infant who cannot resort to breast-feeding or who cannot afford to purchase the same, such person shall continue such donations as long as such infant needs them.

9. No person who produces, supplies, distributes or sells infant foods or feeding bottles shall offer or give, directly or indirectly, any financial inducements or gifts to a health worker or to any member of his family for the purpose of promoting use of such foods or bottles.

Prohibition on inducement to health worker for promoting use of infant foods, etc.

10. (1) No person who produces, supplies, distributes or sells infant foods or feeding bottles shall fix the remuneration of any of his employees or give any commission to such employee on the basis of the volume of sale of such foods or bottles made by such employee.

(2) The employees of such person shall not perform any function which relates to educating a pregnant woman or mother of an infant or pre-natal or post-natal care of the infant.

Special provision relating to employees of person who produces, supplies, distribute or sells infant foods, etc.

11. (1) No person shall sell or otherwise distribute any infant food unless it conforms to the standards specified for such food under the Prevention of Food Adulteration Act, 1954, and the rules made thereunder and the container thereof has the relevant Bureau of Indian Standards certification mark to indicate that the infant food conforms to such standards.

Standards of infant foods, etc.

(2) No person shall sell or otherwise distribute any feeding bottle unless it conforms to the standards specified by the Bureau of Indian Standards for feeding bottles and the certification mark is affixed on its container.

37 of
1954.

37 of
1954.

12. (1) Any food inspector appointed under section 9 of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as the food inspector) or any officer not below the rank of a Class I officer authorised in this behalf by the State Government (hereinafter referred to as the authorised officer) may, if he has any reason to suspect that any provision of section 6 or section 11 has been or is being contravened, enter and search at any reasonable time any factory, building, business premises or any other place where any trade or commerce in infant foods or feeding bottles is carried on or such foods or bottles are produced, supplied or distributed.

Powers of entry and search.

2 of 1974.

(2) The provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act.

Power to seize infant foods, etc or containers thereof.

13. (1) If any food inspector or authorised officer has reason to believe that, in respect of any infant food or feeding bottle or container thereof, the provisions of this Act have been or are being contravened, he may seize such food or bottle or container.

(2) No such food or bottle or container shall be retained by any food inspector or authorised officer for a period exceeding ninety days from the date of its seizure unless the approval of the District Judge, within the local limits of whose jurisdiction such seizure has been made, has been obtained for such retention.

Confis-
cation.

14. Any infant food or feeding bottle or container thereof, in respect of which any provision of this Act has been or is being contravened, shall be liable to confiscation:

Provided that where it is established to the satisfaction of the court adjudging the confiscation that the person in whose possession, power or control any such food or bottle or container is found is not responsible for the contravention of the provisions of this Act, the court may, instead of making an order for the confiscation of such food or bottle or container, make such other order authorised by this Act against the person guilty of the breach of the provisions of this Act as it may think fit.

Power to give option to pay cost in lieu of confisca-
tion.

15. (1) Whenever any confiscation is authorised by this Act, the court adjudging it may, subject to such conditions as may be specified in the order adjudging the confiscation, give to the owner, thereof an option to pay in lieu of confiscation such cost not exceeding the value of the infant food or feeding bottle or container thereof in respect of which the confiscation is authorised as the court thinks fit.

(2) On payment of the cost ordered by the court the seized infant food or feeding bottle or container shall be returned to the person from whom it was seized on the condition that such person shall, before making any distribution, sale or supply of such food, bottle or container, give effect to the provisions of this Act.

Confisca-
tion not to interfere with other
punish-
ments.

16. No confiscation made or cost ordered to be paid under this Act shall prevent the infliction of any punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.

Adjudi-
cation.

17. Any confiscation may be adjudged or costs may be ordered to be paid,

(a) without any limit, by the principal civil court of original jurisdiction within the local limits of whose jurisdiction such confiscation has been made or costs have been ordered to be paid, as the case may be;

(b) subject to such limits as may be specified by the Central Government in this behalf, by such other court, not below a civil court having pecuniary jurisdiction exceeding rupees five thousand, as the Central Government may, by notification in the Official Gazette, authorise in this behalf.

18. (1) No order adjudicating confiscation or directing payment of costs shall be made unless the owner of the infant food or feeding bottle or container thereof has been given a notice in writing informing him of the grounds on which it is proposed to confiscate such food or bottle or container, and giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the confiscation and if he so desires, of being heard in the matter:

Provided that where no such notice is given within a period of ninety days from the date of the seizure of the infant food or feeding bottle or container thereof, such food or bottle or container shall be returned after the expiry of that period to the person from whose possession it was seized.

5 of 1908. (2) Save as otherwise provided in sub-section (1), the provisions of the Code of Civil Procedure, 1908, shall, so far as may be, apply to every proceeding referred to in sub-section (1).

19. (1) Any person aggrieved by any decision of the court adjudicating a confiscation or ordering the payment of costs may prefer an appeal to the court to which an appeal lies from the decision of such court.

(2) The appellate court may, after giving the appellant an opportunity of being heard, pass such order as it thinks fit confirming, modifying or revising the decision or order appealed against or may send back the case with such directions as it may think fit for a fresh decision or adjudication, as the case may be, after taking additional evidence if necessary:

Provided that an order enhancing any fine in lieu of confiscation or for confiscating goods of greater value shall not be made under this section unless the appellant has had an opportunity of making a representation and if he so desires of being heard in his defence.

(3) No further appeal shall lie against the order of the court of appeal.

20. (1) Any person who contravenes the provisions of sections 3, 4, 5, 7, 8, 9, 10 or sub-section (2) of section 11 shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees, or both

(2) Any person who contravenes the provisions of section 6 or sub-section (1) of section 11 shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than one thousand rupees;

Giving of opportunity to the owner of the seized infant food or feeding bottle or container thereof.

Appeal.

Penalty.

Provided that the court may, or any adequate and special reasons to be mentioned in the judgement, impose a sentence of imprisonment for a term which shall not be less than three months but which may extend to two years and with fine which shall not be less than five hundred rupees.

**Offences
by com-
panies.**

21. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.—*For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

**Offences
to be
cogniz-
able and
bailable.**

22. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this Act shall be bailable.

2 of 1974.

(2) For avoidance of doubts, it is hereby declared that every offence punishable under this Act shall be cognizable.

**Protec-
tion of
action
taken in
good
faith.**

23. No suit, prosecution or other legal proceeding shall lie against the Central Government or any State Government or any officer of the Central Government or of any State Government for anything which is in good faith done or intended to be done under this Act.

**Applica-
tion of
Act 37 of
1954 not
barred.**

24. The provisions of this Act or the rules made thereunder shall be in addition to and not in derogation of the Prevention of Food Adulteration Act, 1954, or the rules made thereunder.

**Power to
make
rules.**

25. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the language in which the notice and other particulars referred to in sub-section (1) of section 6 shall be indicated;
- (b) the particulars which are to be indicated under clause (i) of sub-section (1) of section 6;
- (c) the particulars which a container or label shall not bear under clause (e) of sub-section (2) of section 6;
- (d) the matters to be included in the information which reaches pregnant women or mothers of infants under clause (g) of sub-section (1) of section 7;
- (e) any other matter which is required to be or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Every child has a right to be adequately nourished as a means of attaining and maintaining health. Infant malnutrition is a major contributory cause of high incidence of infant mortality and physical and mental handicaps. The health of infants and young children cannot be isolated from the health and nutrition of women. The mother and her infant form a biological unit. Breast-feeding is an integral part of the reproductive process. It is the natural and ideal way of feeding the infant and provides a unique biological and emotional basis for healthy child development. The anti-infective properties of mother's milk protect infants against diseases. The effect of breast-feeding on child spacing, on the health and well-being of the mother, on family health, on family and national economy and on food production is well-recognised. Breast-feeding is, therefore, a key aspect of self-reliance and primary health care. It is, therefore, essential to protect and promote breast-feeding and to protect pregnant women and nursing mothers from any influence that could disrupt it.

Inappropriate feeding practices lead to infant malnutrition morbidity and mortality in our children. Promotion of infant foods and related products like feeding bottles and teats do constitute a health hazard. Promotion of infant foods and related products has been more extensive and pervasive than the promotion of information concerning the advantages of mother's milk and breast-feeding, and contributes to decline in breast-feeding. In the absence of strong interventions designed to protect, promote and support breast-feeding, this decline can assume dangerous proportions subjecting millions of infants to greater risks of infections, malnutrition and death.

In the light of foregoing considerations and in view of the vulnerability of infants in the early months of life to the aforesaid risks and the risks involved in inappropriate feeding practices, including the unnecessary and improper use of infant milk foods and feeding accessories, it has become necessary to regulate the marketing of such products. For the proper nutrition and health of the world's children, the World Health Assembly adopted in May, 1981, an International Code of Marketing of Breast Milk Substitutes. The Government of India recognised this Code and adopted the "Indian National Code for Protection and Promotion of Breast-Feeding" (hereinafter referred to as the Code) in December, 1983.

The Code envisages that there shall be no advertising or other form of sales promotion of infant milk foods, feeding bottles and teats. The Code, in accordance with this general principle, enjoins the health authorities to encourage and protect breast-feeding, and also prescribes several measures to control the marketing and promotion of infant milk foods, feeding bottles and teats.

The Bill proposes to give effect to the principles and aims of the Code. Accordingly, it prohibits advertisements of infant foods and

feeding bottles and also prescribed measures to ensure that in the marketing of infant foods, etc., no impression is given that bottle feeding is equivalent, to, or better than, breast-feeding. The provisions relating to labelling and quality control of such foods and bottles are proposed to be implemented through the concerned Departments in the State Governments and Union territory Administration under the overall control of the Ministry of Health and Family Welfare. Contravention of the provisions of the Bill will be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees or with both. However the contravention of certain provisions of the Bill relating to labelling or quality control of such foods will be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than one thousand rupees.

A Bill on these lines was passed by the Rajya Sabha and was forwarded to the Lok Sabha. However, since the Lok Sabha did not pass the Bill, it lapsed on the dissolution of the Eighth Lok Sabha in terms of article 107(5) of the Constitution.

The Bill seeks to achieve the above object.

NEW DELHI;

December 20, 1989

RAM NAIK

FINANCIAL MEMORANDUM

Clause 12 of the Bill provides that any food inspector appointed under section 9 of the Prevention of Food Adulteration Act, 1954, or any officer not below the rank of a Class I officer authorised by the State Government may, if he has any reason to suspect that any provision, of clause 6 or clause 11 has been or is being contravened, enter and search at any reasonable time any factory, building, business premises, etc. where such contravention has been or is being done.

Clause 13 of the Bill empowers any food inspector or the officer so authorised to seize any infant food or feeding bottle or container thereof in respect of which the provisions of the Bill have been or are being contravened and retain it for a period not exceeding ninety days from the date of the seizure under that clause.

The implementation of the above provisions of the Bill will not require any additional staff by the Central Government, since the said provisions will be implemented through the machinery available in the concerned States and Union territories and dealing with the administration of the Prevention of Food Adulteration Act, 1954.

The provisions of the Bill, therefore, do not involve any additional expenditure of a recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 25 of the Bill empowers the Central Government to make rules, by notification in the Official Gazette, to carry out the provisions of the proposed legislation. The rules may be made, *inter alia*, to prescribe the conditions and restrictions subject to which educational equipment and other material relating to infant food may be donated or distributed, the language in which the notice and other particulars shall be indicated on a container of infant food or any label affixed thereto, the particulars which should be indicated on such container or the label affixed thereto, the particulars which such container or the label shall not bear and the matters to be included in the information which reaches pregnant women or mothers of infants.

The matters in respect of which rules may be made under clause 25 are essentially matters of detail or procedure. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 3 OF 1990

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1990.

Substitution of new Schedule for Eighth Schedule.

2. For Eighth Schedule to the Constitution, the following Schedule shall be substituted, namely:—

“EIGHTH SCHEDULE

[Articles 344(1) and 351]

Languages

1. Assamese.
2. Bengali.
3. Bhojpuri.
4. Gujarati.
5. Hindi.
6. Kannada.

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- 7. Kashmiri.
 - 8. Maithili.
 - 9. Manipuri.
 - 10. Malayalam.
 - 11. Marathi.
 - 12. Nepali.
 - 13. Oriya.
 - 14. Punjabi.
 - 15. Sanskrit.
 - 16. Santhali.
 - 17. Sindhi.
 - 18. Tamil.
 - 19. Telugu.
 - 20. Urdu."

STATEMENT OF OBJECTS AND REASONS

The flowering and flourishing of any democratic order and institution are dependent upon the development and recognition of the mother-tongues concerned. Our country with a population of above 800 millions, has got 15 languages in the Eighth Schedule to the Constitution of India. Many other languages of the country do not find a place in the Constitution.

Maithili language is the mother-tongue of millions of people in our country. It is also the mother-tongue of the adjoining areas of Nepal, our fraternal neighbour, having historical, cultural and linguistic ties with us. It is recognised by the Sahitya Academy for many years and is taught in degree and post graduate courses in several universities. It is also a medium for competitive examinations conducted by the Government in Bihar.

Nepali is the mother-tongue of more than a million Indians, particularly in North Bengal. Manipuri is the Official language of the Manipur State. Bhojpuri is the mother-tongue of millions of people in Uttar Pradesh and Bihar. It has recently made much headway in the field of cinema also. Santhali is among the most developed languages of the Scheduled Tribes.

Intense mass agitation in varying degrees has been going on for the inclusion of the above languages in the Constitution. Their recognition by the Constitution is necessary in the interest of national integration and national advancement.

Hence this Bill.

NEW DELHI;
December 23, 1989.

BHOGENDRA JHA.

BILL NO. 9 OF 1990

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990.

Short title.

2. In the Constitution, for existing article 37, the following article shall be substituted, namely:—

Substitution of new article for article 37.

“37. The provisions contained in this part are fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.”.

Application of the principles contained in this Part.

STATEMENT OF OBJECTS AND REASONS

Every article in Part IV of the Constitution which contains Directive Principles of State Policy is qualified with words like "strive to promote", "strive to minimise", "direct its policy towards", "within the limits of its economic capacity", "make provision", "endeavour", etc.

In such a situation, the provision in article 37 that the Directive Principles of State Policy shall not be enforceable by any Court make the whole of Part IV of our Constitution redundant and leaves the State free not even to 'strive' or 'endeavour' etc. This non-enforceability directly contradicts the very basis of the Directive Principles of State Policy resulting in just the opposite of what the articles in Part IV seek to endeavour or strive for.

Hence this Bill.

NEW DELHI;
December 23, 1989.

BHOGENDRA JHA

BILL NO. 8 OF 1990

As Bill further to amend the Forest (Conservation) Act, 1980.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Forest (Conservation) Amendment Act, 1990.

(2) It shall come into force at once.

69 of 1980.

2. In section 2 of the Forest (Conservation) Act, 1980 (hereinafter referred to as the principal Act), after clause (ii), the following provisos shall be inserted, namely:—

“Provided that the Central Government shall not withhold its approval for deforestation if the forest land acquired is for public development works such as construction of roads, drinking water schemes, laying of telegraph or telephone lines, electricity lines or any other developmental schemes for the benefit of the general public:

Provided further that the approval of the Central Government shall not be required if the number of trees to be cut, in the forest land to be acquired for the purposes as provided in the first proviso, is one thousand or less.”.

3. After section 3B of the principal Act, the following section shall be inserted, namely:—

“3C. The schemes approved by the State Governments sent to the Central Government for their approval shall be disposed of by the Central Government within fifteen days of their receipt.”.

Short title and commencement.

Amendment of section 2.

Insertion of new section 3C.

Approval of schemes by Central Government within a specified period.

STATEMENT OF OBJECTS AND REASONS

The Forest (Conservation) Act, 1980 provides that any forest land or any portion thereof may be used for any non-forest purpose provided it has the approval of the Central Government. But the Act also provides that an Advisory Committee may be set up to advise the Central Government with regard to cutting of trees in the forest. This provision may delay some public utility services such as roads, drinking water schemes, telephone lines, electricity lines, etc., which are to be provided through the forests and also require cutting of some trees in the process. It is, therefore, necessary to make it compulsory for the Central Government not to withhold its approval for these development works and a provision in this regard is required to be made in the Act.

Hence this Bill.

NEW DELHI;
December 12, 1989.

HARI BHAU SHANKAR MAHALE.

BILL NO. 2 OF 1990

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- | | |
|---|-------------------------------|
| 1. (1) This Act may be called the Constitution (Amendment) Act, 1990. | Short title and commencement. |
| (2) It shall come into force at once. | |
| 2. In article 310 of the Constitution, clause (2) shall be omitted. | Amendment of article 310. |
| 3. In article 311 of the Constitution,— | Amendment of article 311. |
| (i) in clause (2), second proviso shall be omitted; | |
| (ii) clause (3) shall be omitted. | |

STATEMENT OF OBJECTS AND REASONS

The provisions of the Constitution sought to be omitted affect the fundamental and democratic rights of the Central and the State Governments employees and workers. Many of the employees and workers of the Central Government have been arbitrarily removed under these undemocratic and anachronistic provisions. These black provisions deprive the Government employees of protection in accordance with the principles of natural justice as their services are placed at the mercy of the President or the Governor, as the case may be. These provisions have been copied exactly from the provisions made in the Queen Victoria's Proclamation of 1858 and the Government of India Act, 1935 which were aimed to destroy the rights of the Government employees.

In view of this, it has become necessary that these provisions empowering the Government to dispense with the services of Government employees without giving them any opportunity of self-defence and without assigning any reason should be deleted from the Constitution.

The Bill seeks to achieve the objects of safe-guarding the democratic rights of the Government employees in giving them the scope of natural justice and the law of the land.

Hence this Bill.

NEW DELHI;
December 27, 1989.

SATYAGOPAL MISRA.

BILL No. 7 OF 1990

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990.

Short title.

2. After article 18 of the Constitution, the following sub-heading and article shall be inserted, namely:—

Insertion of new article 18A.

“Right to Employment

18A. (1) Every citizen of India, within the age limit of eighteen years to sixty-five years, shall have the right to employment.

Right to employment and unemployment allowance.

(2) Every citizen of India, within the age limit of eighteen years to sixty-five years, who is not provided with employment, shall be given an unemployment allowance at the rate of rupees one hundred per month.”.

STATEMENT OF OBJECTS AND REASONS

Energy and intelligence of the youth of our country can be fully utilised by providing a suitable job to every youth. Nation can prosper more if we can utilise the manpower which we have in our country.

It is the aspiration of the country to provide a job to every youth. After 42 years of Independence no youth of our country should have been left without employment. In order to achieve the socialistic objective of our Constitution, right to employment should be made a fundamental right.

The Bill seeks to achieve this objective.

NEW DELHI;

SATYAGOPAL MISRA

December 27, 1989

FINANCIAL MEMORANDUM

The Bill provides for payment of unemployment allowance to every unemployed citizen at the rate of Rs. 100.00 per month. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India on implementation of this provision in the Union territories and at the same time towards making grants-in-aid to the States to meet the entire expenditure. An annual recurring expenditure of about rupees twenty-five crores is estimated to be incurred from the Consolidated Fund of India on this account.

A non-recurring expenditure of about two crores is also likely to be incurred for carrying out the purposes of this Bill.

BILL NO. 18 OF 1990

A Bill to protect the rights of married women and for matters connected therewith

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Married Women (Protection of Rights) Act, 1990.

Short title.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) 'appropriate Government' means the Central or a State Government under whose employment the husband of the widow was at the time of his death;

(b) 'prescribed' means prescribed by rules made under this Act;

(c) 'property' means movable and immovable property,

whether ancestral or not, or whether acquired jointly with other members of the family or by way of accretion to any ancestral property of the husband of a married woman, and includes deposits of the husband in provident fund, banks, shares, any public saving scheme, ornaments, land and house.

Rights of
married
women.

3. A married woman shall be entitled to the following rights namely:—

(i) she shall have a right to live in the house of her husband whether owned by him or by his joint family without seeking judicial separation or divorce from her husband;

(ii) she shall, without seeking judicial separation, be entitled to have food, clothing and other facilities and maintenance and support for herself from her husband, if she is unemployed;

(iii) she shall be entitled to have an equal share in the property of her husband from the date of her marriage and shall have all proprietary rights over that property;

(iv) she shall have a right of free access till her life to the children born out of the wedlock if they remain in the custody of her husband, irrespective of the dissolution of marriage;

(v) she shall have an option to bring up the children separately, have their custody, maintain and provide education to them consistently by remaining in the family of her husband;

(vi) she shall be consulted by her husband in the matters of family business and other financial transactions made out of the property of her husband or of the joint family; and

(vii) she shall have right to work in any manner she thinks fit and proper.

Rights of
widows.

4. A widow shall be entitled to the following rights, namely:—

(i) she shall, if eligible, be entitled to get suitable employment in the event of the death of her husband if he was an employee of the appropriate Government;

(ii) she shall be entitled to pension, at such rates and on such conditions, as the appropriate Government may prescribe; and

(iii) she shall have the first claim and absolute right in the property or business of her deceased husband.

Enforce-
ability of
rights.

5. (1) The rights conferred by this Act shall be enforceable in a court of law or in a Lok Adalat.

(2) Any transaction or business entered into in violation of clause (vi) of section 3 shall be null and void.

Act to
have
over-
riding
effect.

6. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act, or in any decree or order of any court, Tribunal or other authority.

Power
to make
rules.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

In the wake of independence, Indian woman has not only been able to recognise her status but has also made men recognise it. Nevertheless, the status of a woman is still far from being dignified in the Indian society. Although we are going to cross over to the 21st century, our attitude towards women is still that of the middle aged feudal lords. Even today we are not prepared to grant the same liberty to women which men themselves are enjoying.

Today the real cause of the exploitation of a woman by her husband is that she has got no right in the house of her husband; she has got no right in the property of the husband. Even our laws confer the right of property on a woman only after the death of her husband and not during her coverture.

If a woman's right in the property of her husband is recognised the moment she marries, she will start feeling secure and will overcome her sense of helplessness and economic insecurity. This will minimise, if not eliminate, to a great extent the cases of separation and divorce whose basic reason is economic in many cases. What she will get on divorce, society should grant her during the existence of marriage. It is the most glaring injustice and indignity to woman that while she is a partner of the husband, the latter does not even think it necessary to inform her about his financial and family transactions leave alone consulting her in this regard.

The Bill seek to achieve the above objectives by granting women certain rights which the society has so far denied to them.

NEW DELHI:

February 8, 1990

BASAVARAJESWARI.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules to give effect to the provisions of this Bill. The delegation of legislative power is of a normal character.

BILL NO. 13 OF 1990

A Bill to provide for payment of pension and provision of other facilities to widows.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Widows' Welfare Act, 1990.

Short title,
extent
and com-
mence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "widow" means a female citizen of India who has attained the age of eighteen years and whose husband has died after her legal marriage; and

(b) "pension" means the amount which may be sanctioned in favour of a widow for her maintenance under this Act or any other law for the time being in force.

Establish-
ment
of Cen-
tral
Board
for
widows'
welfare.

3. (1) There shall be established by the Central Government a Board to be known as the "Central Board for Widows' Welfare", hereinafter called the "Central Board".

(2) The Central Board shall consist of the following persons, namely:—

(a) Secretary, Ministry of Welfare, Government of India, who shall act as its Chairman;

(b) one representative from each of the State and Union territory Boards established under section 4;

(c) one member from each of the State and Union territory Governments;

(d) two members from amongst persons who are engaged in active social work.

Establish-
ment of
State and
Union
territory
Boards
for
widows'
welfare.

4. (1) There shall be established by every State Government and Union territory administration a Board to be known as the "State Board for Widows' Welfare" or the "Union territory Board for Widows' Welfare", as the case may be, hereinafter called the "State Board" or the "Union territory Board", to aid and advise the Central Board in implementing the provisions of this Act.

(2) The State Board or Union territory Board shall consist of a Chairman and such number of members, as may be determined by the respective State Government or the Union territory administration, as the case may be.

5. Every State Board and Union territory Board shall formulate plans for helping the widows registered under sub-section (1) of section 8.

Func-
tions of
State
and
Union
territory
Boards.

Pension
and
other
facilities
to widows.

6. Every State Government or Union territory administration, as the case may be, in their respective jurisdiction, shall provide the following to every widow who is registered under sub-section (1) of section 8,—

(a) an amount not exceeding rupees seven hundred per month, in case the widow is having two or more living dependant children and rupees three hundred per month in case the widow has no living dependant child, as pension;

(b) residential accommodation free of cost;

(c) free education to dependant children upto high school level; and

(d) employment to the widow or her dependant children by providing reservation in public employment:

Provided that if a widow gets re-married, all the facilities provided to her and her children under this Act shall be withdrawn.

Establish-
ment of
District
Com-
mit-
tees.

7. (1) There shall be established in every district by the respective State or Union territory Board, a Committee to be known as the "District Committee for Widows' Welfare", hereinafter called the "Committee".

(2) The Committee shall consist of a President and such number of other members, as may be determined by the State or Union territory Board, as the case may be.

(3) The District Committees shall work under the control of the respective State or Union territory Board.

8. (1) It shall be the duty of every Committee to register all widows having no independent and adequate means of livelihood irrespective of their caste, creed or colour.

(2) The Committee shall give wide publicity through radio net-work, newspapers or other media for registering the widows.

(3) The Committee shall forward the list of the registered widows to the State Board or the Union territory Board, as the case may be.

9. (1) There shall be constituted by the Central Government a fund to be known as the "Widows' Welfare Fund", hereinafter called the "Fund" to carry out the purposes of this Act.

(2) The Fund shall consist of the sums into it by the Central Government and grants or donations received from other agencies.

10. The expenses incurred on providing the widows with pension and other facilities under section 6 shall be met out of the Fund.

Functions
of the
District
Commit-
tees.

Constitu-
tion of
Widows'
Welfare
Fund.

Expenses
to be
met out
of the
fund.

State and
Union
territory
Boards
to work
under
Central
Board.

Saving
provision

Power
to make
rules.

11. Every State and Union territory Board shall work under the guidance and control of the Central Board.

12. This Act shall not affect the operation of any other pension law for the time being in force but any widow deriving benefit under this Act shall not be entitled to get benefit under any other pension law.

13. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

There is a large number of widows in the country who have no means to support themselves and their dependant children. They are ill-treated by the people at large. Welfare of Widows and their dependant children should be the concern of the Government. The Bill seeks to provide for the payment of pension and provision of other facilities to Widows who have no other source of income.

NEW DELHI;

February, 8 1990.

BASAVARAJESHWARI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of Central Board for widows' welfare. Clause 4 provides for the establishment of State Board and Union Territory Boards for widows' welfare. Clause 6 provides for the payment of pension, free residential accommodation to the widows and free education to the dependant children of widows upto high school level. Clause 7 provides for the establishment of committees for widows' welfare in every district of the country. Clause 8 provides that the Committee shall give wide publicity through radio net-work, newspapers and other media for registering the widows. Clause 9 provides for the constitution of Widows' Welfare Fund by the Central Government. As far as expenditure on State Boards is concerned, it will be met from the Consolidated Fund of the respective States. But, expenditure to be incurred on Union territory Boards shall be met from the Consolidated Fund of India. The Bill, therefore, if enacted, is likely to involve an estimated annual recurring expenditure of about rupees one hundred crores from the Consolidated Fund of India.

A non-recurring expenditure of about rupees fifty crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 31 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 15 OF 1990

A Bill to provide for abolition of begging and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Abolition of Begging Act, 1990.

Short title, extent and commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires, “begging” shall have the same meaning as assigned to it in clause (a) of sub-section (4), section 363A of the India Penal Code.

Definition.

3. Begging by any person in any manner is hereby abolished.

Abolition of begging.

Punish-
ment for
forcing
others
into
begging.

Estab-
lishment
of res-
cue
homes
for reha-
bilita-
tion of
beggars.

Power
to make
rules.

Report
to be
laid
before
Parlia-
ment.

4. Any person who forces another person into begging shall be punishable with imprisonment which shall not be less than five years.

5. Any person found begging shall be taken into custody by the police and sent to the nearest rescue home, to be established in each District by the Union Government or the State Government, as the case may be, wherein such person shall be provided with facilities for rehabilitation.

6. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment, shall be without prejudice to the validity of anything previously done under that rule.

7. The Central Government shall lay a report before both Houses of Parliament every year on the progress of the implementation of the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

In spite of various measures taken by the Government and various social organisations to help the downtrodden and handicapped, begging has not stopped in the country. The number of beggars has been increasing in big cities everyday. Sometimes, young boys and girls are forced by their parents to take to begging. Even after 42 years of independence, the problem of begging is increasing day by day. It has, therefore, become necessary that legislation should be brought forward to abolish begging and to provide rehabilitation of beggars.

Hence this Bill.

New Delhi;
February 8, 1990.

BASAVARAJESWARI

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for establishment of rescue homes in each district by the Union Government or the State Government, as the case may be, wherein beggars will be provided with facilities for their rehabilitation. The Central Government would have to incur expenditure from the Consolidated Fund of India for establishment of rescue homes in respect of Union territories. As far as the establishment of rescue homes in the States are concerned, the State Governments will incur expenditure from their respective Consolidated Funds. The Bill, therefor, if enacted, will involve expenditure from the Consolidated Fund of India. An annual recurring expenditure of about rupees one crore is likely to be incurred from the Consolidated Fund of India.

A non-recurring expenditure of about rupees two crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 11 OF 1990

A Bill to provide for ban on pre-birth sex determination tests and for matters connected therewith.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- | | |
|--|---|
| 1. This Act may be called the Banning of Sex Determination Tests Act, 1990. | Short title. |
| 2. In this Act, unless the context otherwise requires, 'sex determination test' means scientifically gaining knowledge of the sex of the foetus by means of use of amniocentesis or other modern techniques used on the pregnant women to determine the sex of the foetus. | Definition. |
| 3. All types of pre-birth sex determination tests are hereby banned. | Ban on pre-birth sex determination tests. |
| 4. Notwithstanding anything contained in any other law for the time being in force,— | Punishment. |
| (a) any medical practitioner or any person who conducts any test to determine the sex of the foetus in a pregnant woman; and | |
| (b) any expectant mother who undergoes such pre-birth sex determination test, | |
| shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to five thousand rupees or with both. | |
| 5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. | Power to make rules. |

STATEMENT OF OBJECTS AND REASONS

Sex determination test centres are being operated for the last so many years in our country. Many people have earned a lot of money by operating such centres. These tests are now being increasingly used by the parents and the medical practitioners for pre-birth sex determination with the intention of aborting the female foetus. If this is allowed to continue, it would result in imbalance in male-female ratio in the country. This is high time that a legislation is brought forward to ban such tests in the country.

Hence this Bill.

NEW DELHI:
February 8, 1990.

BASAVARAJESWARI

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. These rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 21 OF 1990

A Bill to provide for the improvement of working conditions of domestic workers.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Domestic Workers (Conditions of Service) Act, 1990.
Short title, extent commence-
ment and applica-
tion.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- (4) It shall apply to every employer employing one or more workers for domestic work in his house.
2. In this Act, unless the context otherwise requires, "domestic worker" means any worker employed for cooking, car driving house-cleaning and attending to all other jobs connected with the Household chores.
Defini-
tion.

14 of 1947.

Application of the provisions of Industrial Disputes Act, 1947.

3. (1) The provisions of the Industrial Disputes Act, 1947, shall, so far as practicable and subject to modifications specified in sub-section (2), apply to, or in relation to, a domestic worker as they apply to, or in relation to, a workman within the meaning of that Act.

(2) The provisions of section 25F of the aforesaid Act, in its application to a domestic worker, shall be construed as if in clause (a) thereof, for period of notice referred to therein in relation to the retrenchment of a workman, the following period of notice in relation to the retrenchment of a domestic worker had been substituted, namely:—

(a) three months in case of a domestic worker who has been in continuous service for a period of not less than two years, and

(b) two months in case of other domestic workers.

Payment of gratuity to domestic workers.

4. Where any domestic worker has been in continuous service, whether before or after the commencement of this Act, for not less than one year, and—

- (i) his services are terminated by the employer for any reasons whatsoever, or
- (ii) he voluntarily resigns from service, or
- (iii) he dies while in service,

the domestic worker or, in the case of his death, his nominee or if there is no nomination in force at the time of death of domestic worker, his heirs or successors, as the case may be shall, without prejudice to any benefits or rights accruing under the Industrial Disputes Act, 1947, be paid, by the employer, on such termination, resignation or death, gratuity which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months.

14 of 1947

Fixation of wages by the Government.

5. (1) The Central Government may, in consultation with the representatives of the domestic workers from amongst the Unions or Association of the domestic workers, by order—

(a) fix rates of wages in respect of the domestic workers; and

(b) revise, from time to time, at such intervals, as it may think fit, the rates of wages fixed under this section.

(2) The rates of wages may be fixed or revised by the Central Government in respect of domestic workers for time work and for piece work.

Payment of wages

6. Every domestic worker shall be paid wages by his employer at the rates which shall in no case be less than the rates of wages specified in the order referred to in section 5.

Leave entitlement.

7. Every domestic worker, who has put in service for six months, shall be entitled every year to,—

(i) casual leave for twelve days,

(ii) sick leave for twenty-one days, and

(iii) earned leave at the rate of one day for a period of 11 days spent on duty.

8. Every employer of a domestic worker shall prepare and maintain such registers, records and muster-rolls and in such manner as may be prescribed by rules made under this Act.

Mainten-
ance of
registers
and
other
records.

9. If any employer contravenes the provisions of this Act, he shall be punishable with fine which may extend to one thousand rupees notwithstanding any other punishment to which he may be liable for the contravention of any other law for the time being in force governing the domestic workers.

Punish-
ment.

10. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

Power
to make
rules.

STATEMENT OF OBJECTS AND REASONS

There are millions of domestic servants working as maid-servants or male-servants to attend to household and other personal work. The working conditions of these domestic servants are miserable and primitive. They are required to work for almost 18 hours a day. There is no protection for these workers under any statute. They are neither paid the minimum wages nor their hours of service are specified. They are not given any rest or leisure time during the day. They are also not given any benefits such as gratuity, provident fund, bonus, leave with wages, holidays, etc. Their services can also be terminated at any time without notice and without any compensation by their employers.

The domestic servants have been agitating for better service conditions throughout the country. It is, therefore, very essential to regulate their service conditions.

Hence this Bill.

NEW DELHI;
February 8, 1990.

HARISH RAWAT

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL No. 25 OF 1990

A Bill to provide for ceiling on wages of a family and for matters connected therewith.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Ceiling on Wages Act, 1990.
(2) It extends to the whole of India.
Short title and extent.
2. This Act shall apply to employees of the Central Government, public sector undertakings or establishments or organisations under the control of the Central Government or Union territory administrations or private sector.
Application of the Act.
3. In this Act, unless the context otherwise requires, "family" means husband, wife and minor children.
Definition.
4. (1) Notwithstanding anything contained in any other law for the time being in force, the minimum and maximum wages of an employee or of his family shall be rupees one thousand and five hundred and rupees five thousand per month, respectively.
Ceiling on wages.

Compulsory savings from wages. (2) If the wages of family of an employee exceed rupees five thousand per month, the amount in excess of rupees five thousand shall be deposited by the head of the family in a nationalised bank, which shall be refunded to him on his attaining the age of superannuation or on cessation of his employment or to his legal heirs in case of his death.

Filing of returns by employees. 5. (1) It shall be the duty of every employer to deduct every month ten per cent. of wages, payable to an employee, as compulsory savings before the wages for that month are paid to him.

(2) The amount so collected shall be deposited in a nationalised bank and shall be returned to the employee with interest accrued thereon on his attaining the age of superannuation or on cessation of his employment or to his legal heirs in case the employee dies while in service or for such other purposes as may be prescribed.

Punishment. 6. Every employee shall file a return every year with his employer, containing particulars about the wages earned by the members of his family.

7. (1) If any employer contravenes the provision of sections 4 and 5, he shall be punishable with fine which may extend to rupees ten thousand.

(2) If any employee files a false return with his employer, he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to rupees ten thousand or with both.

Power to make rules. 8. The Central Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

In India there are at least 85 per cent people whose income is less than rupees one thousand and five hundred per month and the remaining are those whose income is unlimited, with the result that there is no economic and social equality. Some people cannot afford to meet the minimum expenses of their families and some others have a problem as to how to spend the money which they have far in excess of their needs. This disparity in income has created frustration among large number of people of the country. Therefore, it is necessary to have a legislation wherein minimum and maximum income of a family is fixed.

Accordingly, it has been proposed in the Bill, in the first instance, to provide for a ceiling on family income of employees of the Central Government, public undertakings and of private sector. A provision has also been made for compulsory savings by such employees.

Hence this Bill.

NEW DELHI;

February, 7, 1990.

DHARMESH PRASAD VIRMA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

BILL No. 26 OF 1990

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990. Short title.

2. For article 263 of the Constitution, the following article shall be substituted, namely:— Substitution of new article for article 263.

"263. (1) There shall be established an inter-State Council, charged with the duty of— Establishment of an inter-State Council.

(a) inquiring into and advising upon disputes which may have arisen between States;

(b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common interest; or

(c) making recommendations upon any such subject and, in particular, recommendations for the better coordination of policy and action with respect to that subject.

(2) The Council shall consist of the Prime Minister, the Union Minister of Home Affairs and the Chief Ministers of the States.

(3) The Prime Minister shall be the Chairman of the Council.

(4) The Council may invite any other member of the Union Council of Ministers and an administrator of a Union territory, to the Council, whenever considered necessary.

(5) The Council shall meet at least twice in a year.

(6) (a) the Council shall have a Secretary who shall be appointed by the President under his hand and seal on the advice of the Prime Minister in consultation with the Chief Ministers of the States.

(b) The Council shall have such other staff to assist the Secretary as may be appointed by the Central Government.

(7) The term of office of the Secretary shall be five years.

(8) The other terms and conditions of service of the Secretary and other staff shall be such as may be laid down by the Council.

(9) The Council shall frame an annual budget to which the Central Government and the Governments of the States shall contribute equitably.

(10) The Council shall have the power to lay down its own procedure.

(11) The decisions taken by the Council shall be placed before both Houses of Parliament for ratification and the decisions so ratified shall be final".

STATEMENT OF OBJECTS AND REASONS

Article 263 of the Constitution enjoins upon the President to set up an inter-State Council for the purpose of co-ordination between States, if he is satisfied about the need for it. The article is interpreted as one of **recommendatory** nature and not of mandatory one. Relying on this interpretation, the Central Government has not, so far, advised the President to set up such an inter-State Council as contemplated in the Constitution. As such, a Council has not yet been set up.

The Administrative Reforms Commission, although did not share the view of changing the Constitution for more harmonious relations between the Centre and States, did recommend the use of this enabling provision to set up a Council. The recommendation, however, did not find favour with the Government presumably because of the interpretation referred to above.

In the changed political condition, particularly marked by the advent of multi-party polity, the need for a forum for mutual exchange of views on issues which concern the States as well as the Centre, is highly imperative. This Council cannot be brought into existence unless the article is made mandatory. The disputes between the States have been on the increase for the last so many years and no final decision has been arrived at. This is causing great unrest in the various States. Hence, it is necessary to establish an inter-State Council without any delay.

The Bill seeks to achieve the above objective.

NEW DELHI;
February 7, 1980.

DHARMESH PRASAD VERMA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the establishment of an inter-State Council. The Council will have a Secretary and a Secretariat. There will be no expenditure from the Consolidated Fund of India in the case of the members of the inter-State Council inasmuch as all of them will already be the functionaries of the Central and State Governments or of the Administrations of the Union territories, drawing their salaries and allowances from the respective Governments and the Union territories.

However, there will be expenditure involved from the Consolidated Fund of India in respect of the office of the Secretary and his Secretariat. There is also a provision in the Bill that the Central Government and the Governments of the States shall contribute equally to the annual budget of the Council. The recurring expenditure on this account may, approximately, be of the order of rupees three lakhs per annum. There will also be involved a non-recurring expenditure of about rupees fifty thousands at the initial stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill provides for laying down by the Council the terms and conditions of the service of the Secretary and other staff to the inter-State Council sought to be established there'n. Provision has also been sought to be made empowering the Council to lay down its own procedure. The matters with respect to which the Council will make rules are matters of details only. The delegation of legislative power, therefore, is of a normal character.

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1990.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. After article 30 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 30A.

“30A. (1) The State shall provide for free and compulsory education for all children upto the senior secondary stage.

Free and compulsory education.

(2) All technical education, including engineering, medical and agricultural education, shall be provided free to the deserving children selected by the Central Government for these courses from all over the country by means of a common test.”.

STATEMENT OF OBJECTS AND REASONS

Article 45 of the Constitution enjoins on the State to provide for free and compulsory education for all children until they complete the age of fourteen years. As this is only a Directive Principle of State Policy, it is not enforceable by law. Also, not much has been done in this regard and as a matter of fact, illiteracy in the country has increased since independence. The technical education has gone in the hands of those who are rich and the poor and deserving children in the country are suffering for want of adequate opportunities. It is high time that the provision to provide for free and compulsory education is included in the Fundamental Rights so that it can be enforced by law. It is also desirable that the State is now called upon to provide for free and compulsory education upto the Senior Secondary level and technical education is provided to the best talented children irrespective of their financial position.

The Bill seeks to achieve the above objective.

NEW DELHI;

February 9, 1990.

DHARMESH PRASAD VERMA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the Central Government shall provide for free and compulsory education for all children upto Senior Secondary stage, and also free technical education, etc. to the deserving children. The Central Government shall have to assist the State Governments financially to achieve the said objective.

It is estimated that in this connection the recurring annual expenditure will be about rupees two hundred crores and non-recurring expenditure will be about rupees twenty crores from the Consolidated Fund of India.

BILL No. 17 OF 1990

A Bill to provide for the rehabilitation and welfare of the disabled.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Disabled Persons (Rehabilitation and Welfare) Act, 1990.

Short title,
extent,
commencement and applica-
tion.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(4) It shall apply to establishments owned or controlled by the Central Government or the State Governments or Union territory Administrations.

2. In this Act, unless the context otherwise requires,—

Definitions.

(i) "disabled" includes any individual who has physical, mental or any other disability or handicap which, for such individual, constitutes or results in a substantial handicap to his normal daily activities and to employment and also includes any person who has

a physical or mental impairment or other disability which substantially limits the use of his limbs or other faculties restricting his normal life; and

(ii) "State" means the Central Government or the State Governments or the Union territory Administrations, as the case may be.

Constitu-
tion of
National
Council
for the
disabled.

3. (1) There shall be constituted by the Central Government a National Council for the Disabled (hereinafter referred to as the National Council).

(2) The National Council shall consist of the following, namely:—

(i) the Secretaries of the Ministries of Welfare, Health and Family Welfare, Labour and Finance of the Government of India;

(ii) a representative of the Ministry of Planning;

(iii) a representative of the Central Social Welfare Board;

(iv) a representative from each of the State Governments and Union territories; and

(v) two representatives representing associations or voluntary agencies engaged in welfare of the disabled.

(3) The Chairman of the National Council shall be appointed, from amongst its members, for such period as may be determined, by the Central Government from time to time.

(4) It shall be the duty of the National Council to—

(i) evolve a broad national policy for the rehabilitation of the disabled and such policy shall cover all aspects of rehabilitation of the disabled;

(ii) ensure close cooperation and coordination between the State Councils constituted under section 4;

(iii) start new programmes, projects, services and model pilot projects for the rehabilitation of the disabled;

(iv) review and suggest amendments to the existing laws or to suggest new laws for welfare of the disabled;

(v) review from time to time the progress made in the implementation of the comprehensive rehabilitation policy for the disabled; and

(vi) review the facilities available to the disabled from time to time.

(5) The National Council shall meet at least once in every six months to review the progress made in the implementation of national policy for the rehabilitation of the disabled and shall take all necessary steps for further improving the rehabilitation services for the disabled.

4. There shall be constituted by every State Government or Union territory Administration a State Council for the disabled or a Union territory Council for the disabled, as the case may be, (hereinafter referred to as State Council or Union territory Council), consisting of such number of members as may be determined by the concerned State Government or Union territory Administration.

Constitution of State Councils for the disabled.

5. It shall be the duty of every State Council and Union territory Council to implement the policies of the National Council and to provide facilities to the disabled under the provisions of this Act.

Functions of State and Union territory Councils.

6. (1) The State shall give concessions to the disabled as are necessary for their advancement.

Prohibition of discrimination on grounds of disability.

(2) The State shall not discriminate against any disabled in the matter of providing educational or employment facility or for making available other benefits under any scheme of the State for the welfare of the disabled, to which the disabled person is otherwise eligible.

7. Every disabled person shall have the right and be eligible to receive free of cost medical, surgical and other kinds of treatment, aids, appliances and equipments, the use of which may reduce the adverse effects of disablement and restore the functional abilities of the disabled.

Rights of disabled.

8. The State shall,—

Welfare measures for the disabled.

(i) reserve five per cent. of all housing units or such land used for construction of flats/houses, as may be determined by the State;

(ii) provide training and other facilities to the disabled so as to enable them to participate in sports or other recreational games, social and cultural activities.

(iii) provide free passage to the disabled for travel by road, sea, inland navigation or by air;

(iv) provide all aids, appliances, equipments and other articles used in the treatment, training, employment or economic resettlement of the disabled and such articles shall be exempt from payment of custom and excise duties, central and local sales-tax, octroi or any other levy, duty or cess imposed from time to time by the State;

(v) provide such interest free loans and other financial assistance to the disabled, as may be determined by the State, on easy terms for their training and employment including rural employment and self-employment; and

(vi) keep all disabled in the homes for the disabled to be set up by the State.

9. (1) The State shall provide gainful training to the disabled in the institutions to be set up for the purpose.

Training and employment.

(2) The State shall reserve a minimum of four per cent. of jobs and posts for the disabled and shall provide jobs to the disabled suitable to their training, qualifications and experience:

Provided that, wherever necessary, prescribed medical standards shall be relaxed subject to the condition that the standard of the performance shall not be affected.

(3) All disabled persons shall receive the same wages and allowances and enjoy the same terms and conditions of the service and opportunities for promotions and advancement in career as are enjoyed by the other workers in the same organisation.

Recognition of Institutions for the welfare of the disabled.

10. (1) All Institutions and Associations working for the welfare of the disabled shall be recognised by the State subject to such terms and conditions as may be imposed by it from time to time.

(2) No individual or a body of persons shall establish any institution or Association for the welfare of the disabled without obtaining prior permission from the States.

Concessions to institutions for the disabled.

11. All recognised institutions and the employers employing the disabled shall be entitled to the following concessions, namely:—

(i) all aids, appliances, equipments and other articles used in the treatment, training, employment or economic resettlement of the disabled shall be exempt from payment of custom and excise duties, sales tax, octroi or any other levies, duties or taxes imposed from time to time by the State;

(ii) full exemption from payment of income-tax and all other direct or indirect taxes levied by the State;

(iii) reimbursement of the cost of special adaptations or adjustments of machines needed to employ the disabled persons.

Research and prevention of disability.

12. (1) The State shall conduct research in specific areas relating to disabilities and identify jobs and other facilities that can be provided to the disabled.

(2) The State shall provide grants to the institutions or other organisations involved in conducting such research.

(3) The State shall undertake measures for the prevention of disability and for this purpose frame such schemes as may be found necessary:

Provided that the State may implement such schemes in collaboration with voluntary organisations working for the welfare of the disabled.

Punishment.

13. Any individual or a body of persons responsible for violating the provisions of this Act shall be punished with rigorous imprisonment for a term not exceeding five years or with fine not exceeding rupees twenty thousand or with both.

Power to make rules.

14. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The nation has a great responsibility to look after the disabled persons and make them useful citizens of the country. Various agencies—governmental as well as non-governmental—are at work providing for the care and vocational training to the handicapped persons. But, the efforts of all these agencies are not sufficient and lakhs of the disabled remain uncared for, suffering from privations of all sorts. There is need for an all-India body to evolve a broad national policy for the care and rehabilitation of the disabled and coordinate the activities of the different agencies functioning in this field.

Special institutions are to be set up to provide suitable training for persons suffering from different sorts of physical handicaps and all efforts should be made to provide gainful employment to the persons so trained.

Hence this Bill.

NEW DELHI;

UTTAM RATHOD.

December 15, 1989.

PRESIDENT'S RECOMMENDATIONS UNDER ARTICLES 117 AND 274
OF THE CONSTITUTION OF INDIA

[Copy of letter No. 17-7/89-HW III, dated 9 February 1990 from Shri Ram Vilas Paswan, Minister of Labour and Welfare to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed 'The Disabled Persons (Rehabilitation and Welfare) Bill, 1990,' by Shri Uttam Rathod, M.P., recommends under articles 117(1), 274(1) and under clause 3 of the article 117 of the Constitution, the introduction and consideration of the Bill in Lok Sabha.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a National Council for the disabled by the Central Government. Clause 4 provides for the constitution of a Council for the disabled by every State Government and Union Territory Administration. Clause 7 provides that every disabled person shall have the right to receive medical treatment and aids and appliances used for such treatment, free of cost. Clause 8 provides that all disabled shall have facilities like training in sports, free travel, interest free loans, etc. It further provides that the disabled shall be housed in the homes for the infirm to be set up for the purpose. Clause 9 provides for the training of the disabled. Clause 11 provides for the reimbursement of the cost of special adaptations or adjustments of machines needed by employers and other institutions to employ the disabled persons in their organisations. Clause 12 provides for the conduct of research in specific areas relating to disabilities and for provisions of grants to the institutions and other organisations involved in such research. It further provides for framing of schemes for the prevention of disability in the country. The Bill, if enacted, would involve expenditure from the Consolidated Fund of India in respect of obligations by the Central Government and Union territory Administrations. As far as the obligations of the State Governments are concerned, the expenditure would be met out of their respective Consolidated Funds, although some financial assistance may be extended by the Central Government.

It is estimated that an annual recurring expenditure of about ten crores is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 23 OF 1990

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990.
2. After article 281 of the Constitution, the following articles shall be inserted, namely:—

Short title.

Insertion of new articles 281A and 281B.

State Finance Commission.

“281A. (1) The Governor shall, within one year from the commencement of the Constitution (Amendment) Act, 1990 and thereafter at the expiration of every fifth year, by order constitute a State Finance Commission which shall consist of a Chairman and three other members to be appointed by the Governor.

(2) The Legislature of the State may by law determine the qualifications and other conditions for appointment as members of the State Finance Commission and the manner in which they shall be selected.

(3) It shall be the duty of the State Finance Commission to make recommendations to the Governor as to—

(a) the distribution of State funds between the departments of the State Government and the Municipality, Corporation and Panchayati Raj institutions namely, Zila Parishads, Gram Panchayats and Gram Sabhas; and

(b) the principles which should govern the distribution of funds referred to in sub-clause (a).

281B. The Governor shall cause every recommendation made by the State Finance Commission under the provisions of this Constitution together with an explanatory memorandum as to the action taken thereon to be laid before the Legislative Assembly or each House of the Legislature of the State, as the case may be.”.

Recommendations of the State Finance Commission.

STATEMENT OF OBJECTS AND REASONS

To ensure mass participation in the development process, the decentralisation of powers at all levels is imperative. The decentralisation of administrative powers, which ensures the broadest participation, must be matched with the resources allocations at all levels. Experience has shown that local-self Government institutions, as existing now can not discharge their assigned responsibilities with the resources placed at their disposal.

In order to obviate these loopholes in the existing system of resources distribution to the local-self Government Institutions, the need to design a mechanism or agency for equitable distribution of State resources is being felt. State Finance Commissions can become such instruments. An enabling provision in the Constitution for this purpose is, therefore, necessary.

Hence this Bill.

NEW DELHI;
February 12, 1990.

CHITTA BASU.

BILL NO. 23 OF 1990

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990.

Short title.

2. In article 200 of the Constitution, for the words "the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:", the words "the Governor shall as soon as possible and in any case not later than three months after the presentation to him of the Bill for assent, declare either that he assents to the Bill or that he withholds assent therefrom:" shall be substituted.

Amend-
ment of
article
200.

3. In article 201 of the Constitution, for the words "the President shall declare", the words "the President shall, as soon as possible and in any case not later than three months, after the Bill has been reserved by the Governor for his consideration declare" shall be substituted.

Amend-
ment of
article
201.

STATEMENT OF OBJECTS AND REASONS

Articles 200 and 201 of the Constitution provide for assent to the Bills passed by the State Legislatures. The Bills passed by the State Legislatures are presented to the Governor for his assent and the Governor declares either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President. There are two infirmities in this process. One is that there is no time limit for the Governor for declaring his decision. The other is that there is general discretionary power with the Governor to reserve any Bill for the consideration of the President. Except in the second proviso to article 200 and clause (2) of article 288, there is no other specific provision in the Constitution which requires a Bill passed by a State Legislature to be reserved for the consideration of the President.

The experience during the last several years has shown firstly, that the Governor often takes unusually long time to declare his assent affecting the interests of the people; and secondly, the Governor may withhold his assent to the Bills and reserve for the consideration of the President any Bill whether covering a subject falling under the State List or the Concurrent List, which restrains the power that be, from expeditiously giving effect to the mandate obtained by it from the people. Instances are there which show that some Bills passed by the State Legislatures were not given Presidential assent even after two and a half years from the date of their receipt by the President. If a time limit is imposed within which the Governor and the President shall dispose of the matter, this kind of situation may be averted. At the same time, the Governor's right to reserve the Bills for the consideration of the President should be confined only to those Bills passed by a State Legislature which are required to be reserved for the assent of the President under the specific provisions of the Constitution. The general discretion given to the Governor at present in this regard under the existing provisions of article 200 should be withdrawn.

Hence this Bill.

NEW DELHI;
February 12, 1990.

CHITTA BASU.

BILL NO. 32 OF 1990

A Bill to provide for the welfare of agricultural workers and to regulate their employment and conditions of service and for matters connected therewith.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Agricultural Workers Act, 1990.

(2) It extends to the whole of India.

(3) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States and for different provisions of this Act.

Short title, extent and commencement.

2. In this Act, unless the context otherwise requires.—

(a) "adolescent" means a person who has completed his fifteenth year of age but has not completed his eighteenth year of age;

(b) "adult" means a person who has completed his eighteenth year of age;

Definitions.

(c) "appropriate Government" means in the case of a State, the State Government and in the case of a Union territory, the Central Government;

(d) "child" means a person who has not completed his fifteenth year of age;

(e) "agricultural dispute" means any dispute or difference between employers and employees or between employers and agricultural workers or between agricultural workers and agricultural workers or any dispute raised by a trade union or any recognised organisation which is connected with the employment or non-employment or the terms of employment or the conditions of service of any person.

Explanation.—Where any employer discharges, dismisses, retrenches or otherwise terminates the service of, or denies employment to, an agricultural worker, any dispute or difference between that agricultural worker and his employer connected with, or arising out of, such discharge, dismissal, retrenchment, termination or denial of employment shall be deemed to be an agricultural dispute notwithstanding that no other agricultural worker nor any union of agricultural workers is a party to such a dispute.

(f) "agricultural land" means any land, used for cultivation, or for—

(i) farming, including the cultivation and tillage of soil;

(ii) dairy farming;

(iii) production, cultivation, growing and harvesting any horticultural commodity;

(iv) raising of livestock, bee-keeping or poultry farming;

(v) any practice performed on a farm as incidental to or in conjunction with the farm operations including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products;

(vi) fodder or thatching or grass or grazing cattle but does not include any plantation as defined in the Plantations Labour Act, 1951;

(g) "Agricultural Tribunals" means, in relation to any area the Agricultural Tribunal constituted under this Act for that area;

(h) "agricultural worker" means a person who follows one or more of the following agricultural occupations as a labourer on hire or in exchange:—

(i) farming, including the cultivation and tillage of soil;

(ii) dairy farming;

(iii) production, cultivation, growing and harvesting of any horticultural commodity;

- (iv) raising of livestock, bee-keeping or poultry farming;
- (i) "Fund" means the Agricultural Workers' Fund established under this Act;
- (j) "Inspector" means an Inspector appointed under this Act.
- (k) "prescribed" means prescribed by the rules made under this Act;
- (l) "Registration Officer" means a Registration Officer appointed under this Act;
- (m) "Scheme" means the Agricultural Workers' Welfare Fund Scheme framed under this Act;
- (n) "Wages" means payment received in cash or in kind or both in cash and in kind, and shall include payment of share of the produce, where prevalent, and wages in kind shall include perquisites that a person receives customarily for the work performed such as food grains, cooked meals, fuel, tobacco, housing clothes, shoes and bonus.

CHAPTER II

AGRICULTURAL TRIBUNAL AND OFFICERS

3. (1) The appropriate Government shall, by notification in the Official Gazette, constitute an Agricultural Tribunal for any area specified therein for performing the functions of the Agricultural Tribunal under this Act.

Constitution of Agricultural Tribunals.

(2) The Agricultural Tribunal shall consist of one member having expert knowledge and experience in agriculture who shall be appointed by the appropriate Government.

4. (1) The appropriate Government shall, by an order published in the Official Gazette,—

Appointment of Registration Officers.

(a) appoint such officers as it thinks fit, to be the Registration Officers for the purposes of this Act, and

(b) define the local limits, within which a Registration Officer shall exercise the powers conferred on him by, or under, this Act.

(2) The Registration Officer shall exercise such powers, and perform such functions as may be prescribed.

5. The appropriate Government shall by notification in the Official Gazette, appoint for any area specified therein any officer to be a Conciliation Officer for performing the functions of a Conciliation Officer under this Act.

Appointment of Conciliation Officers.

6. (1) The appropriate Government shall, by notification in the Official Gazette, appoint duly qualified persons to be the Inspectors for the purposes of this Act and define the local limits within which they shall exercise their powers.

Appointment of Inspectors.

(2) Subject to such rules as may be made in this behalf by the appropriate Government, an Inspector may, within the local limits for which he is appointed,—

(a) conduct such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the rules made thereunder are being observed in the case of an agricultural land;

(b) enter, inspect and examine any agricultural land or part thereof with such assistants, if any, being persons in the service of Government or local or other public authority as he thinks fit, at any reasonable time for the purposes of carrying out the purposes of this Act.

(c) examine any agricultural worker employed therein or require the production of any register or other document maintained in pursuance of this Act and take, on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act;

(d) exercise such other powers as may be prescribed.

7. Every employer shall afford an Inspector all reasonable facilities for making an entry, inspection, examination or inquiry under this Act.

Facilities to be afforded to Inspectors.

CHAPTER III

SECURITY OF EMPLOYMENT AND WELFARE

8. (1) The employer shall not employ a new agricultural worker unless he has employed all the agricultural workers who had worked at any time during the previous agricultural season.

(2) In case of permanent employees preference shall be given to those who have worked earlier.

Explanation.—For the purposes of this sub-section, “permanent worker”, in relation to an employer means an agricultural worker whom that employer is bound to employ by custom or contract or who is otherwise to work in the agricultural land of that employer..

(3) Notwithstanding anything contained in the foregoing provisions of this section, no employer shall be under an obligation to employ any agricultural worker—

(a) who does not offer himself for employment; or

(b) who is more than sixty-five years of age; or

(c) who is incapacitated and is unable to do the work.

9. (1) A trade union of agricultural workers shall be registered and shall carry on its management and activities in accordance with its constitution and the laws applicable to trade unions.

Trade Unions of agricultural workers.

Explanation I.—A trade union means any combination, whether temporary or permanent, formed primarily for the purpose of regulating relations between employees and employers or between employees and employees or between employers and employers and includes any association of two or more trade unions.

Explanation II.—For the purposes of Explanation I, an employee includes any agricultural worker as defined in the Act.

(2) The subscription payable by the members of such a trade union shall not be less than twenty-five paise per month per member.

10. (1) The appropriate Government may, by notification in the Official Gazette, frame a Scheme to be called the Agricultural Workers' Welfare Fund Scheme for the establishment of a Welfare Fund under this Act, and as soon as the Scheme is framed, a Fund shall be established in accordance with the provisions of this Act and the Scheme.

Establishment of Agricultural workers' Welfare Fund.

(2) The Fund shall vest in, and be administered by, a Board Constituted under section 13.

(3) Subject to the provisions of this Act, the Scheme framed under sub-section (1) may provide for such matters as may be prescribed.

11. (1) The appropriate Government shall pay contribution to the Fund in such manner and at such rate as may be prescribed.

Contribution to the Fund.

(2) The employer shall pay contribution to the Fund in such manner and at such rate as may be prescribed.

(3) Each agricultural worker shall also pay contribution to the Fund in such manner and at such rate as may be prescribed.

12. The appropriate Government may, by notification in the Official Gazette, make addition to, amend or vary, the Scheme.

Power to modify the Scheme.

13. (1) The appropriate Government shall, by notification in the Official Gazette, constitute with effect from such date as may be specified in the notification, a Board to be called the Agricultural Workers' Welfare Fund Board for the administration of the Fund.

Constitution of Welfare Fund Board.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal and shall by the said name sue or be sued.

(3) The Board shall consist of such number of members as the appropriate Government may determine and the members shall be chosen in such manner as may be prescribed:

Provided that the number of members representing the appropriate Government, the employers, and the agricultural workers shall be equal.

(4) The appropriate Government shall appoint one of the members of the Board to be its Chairman.

(5) The term of office of, and the manner of filling casual vacancies among, the members of the Board shall be such as may be prescribed.

(6) The names of the Chairman and the members of the Board, shall be published in the Official Gazette.

(7) The Board shall administer the Fund in such manner as may be specified in the Scheme.

Appoint-
ment of
officers
of the
Board.

14. (1) The appropriate Government may appoint such number of officers as it thinks fit for assisting the Board in the administration of the Fund.

(2) The officers appointed under sub-section (1) shall exercise such powers and discharge such duties as may be prescribed.

Direc-
tions by
the Gov-
ernment.

15. The appropriate Government may give directions to the Board and such directions may include directions relating to the recruitment, conditions of service and training of its employees and the wages to be paid to the employees.

Protec-
tion from
attach-
ment.

16. (1) The amount standing to the credit of any agricultural worker in the Fund shall not in any way be assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member.

(2) Any amount standing to the credit of any agricultural worker in the Fund at the time of his death and payable to his nominees under the Scheme shall, subject to any deduction authorised by the Scheme, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or the nominee before the death of such worker.

(3) Any amount standing to the credit of a member in the Fund at the time of his ceasing to be an agricultural worker, whether on the ground that he is over sixty-five years of the age or on the ground that he is incapacitated and is unable to work or on any other ground, shall, subject to any deduction authorised by the Scheme, be paid to him and shall be free from any debt or other liability incurred by that member before his ceasing to be an agricultural worker.

Employer
not to
reduce
wages,
etc.

17. No employer shall by reason only of his liability for the payment of any contribution to the Fund reduce, whether directly or indirectly, the wages of any agricultural worker to whom the Scheme applies.

CHAPTER IV

HOURS OF WORK AND LIMITATIONS OF EMPLOYMENT AND WAGES

Hours of
work.

18. Save as otherwise expressly provided in this Act, no adult agricultural worker shall be required to work for more than eight hours, with half-an-hour rest, in a day and no adolescent or child for more than six hours in a day inclusive of half-an-hour rest.

Extra
wages
for over-
time
work.

19. Where an agricultural worker works in any employment for more than nine hours on any day or for more than forty-eight hours in any week, he shall, in respect of such overtime work, be entitled to wages at double the ordinary rate of wages.

Explanation.—The expression “ordinary rate of wages” means the basic wage plus such allowances including the cash equivalent of the

advantages accruing through the concessional sale of foodgrains and other articles, as the person employed is, for the time being, entitled to but does not include a bonus.

20. The period of work on each day shall be so fixed that no period shall exceed four hours and that no agricultural worker shall work for more than four hours before he has had an interval for rest of atleast half an hour.

Daily intervals for rest.

21. Wherever harvesting wages are prevalent, the wages shall be paid at the threshing floor on which the threshing takes place and no portion of the produce shall be removed from the threshing-floor without payment of the prescribed wages to the agricultural worker concerned.

Harvesting wage.

22. (1) Every employer shall pay to every agricultural worker employed by him, for each day of work, the wages notified by the appropriate Government in the Official Gazette.

Wages payable to agricultural workers.

(2) The appropriate Government may, from time to time, by notification in the Official Gazette, fix the rate of wages of casual workers engaged on daily basis either for the whole State or the Union territory, as the case may be, or for any part thereof so as to make a distinction between the monthly and the daily wages.

23. (1) If any employer pays less than the wages notified in the Official Gazette or refuses to pay such ages to any agricultural worker, the agricultural worker, or an official of the trade union of which he is a member, may make an application to the Conciliation Officer for a direction under sub-section (2).

Enforcement of payment of wages.

(2) On receipt of an application under sub-section (1), the Conciliation Officer shall, after giving the applicant and the employer an opportunity of being heard and after such inquiry, if any, as he may consider necessary, direct—

(a) in the case of a claim arising out of the payment of less than the wages notified in the Official Gazette, the payment to the agricultural workers of the amount by which the wages notified in the Official Gazette payable to him exceeds the amount actually paid by the employer;

(b) in the case of a claim arising out of non-payment of the wages notified in the Official Gazette, the payment of the amount of wages to the agricultural worker.

(3) If as a result of a direction under sub-section (2) any amount of the wages notified in the Official Gazette, becomes payable to an agricultural worker, the Conciliation Officer may recover that amount from the employer concerned and if such recovery is not possible, the Conciliation Officer shall make a report to the Collector or the Deputy Commissioner, as the case may be, specifying the full particulars regarding the amount due to the agricultural worker concerned and on receipt of such report, the Collector or the Deputy Commissioner, as the case may be, shall proceed to recover the same from the employer concerned as if it were an arrear of public revenue on land and the time limit in such cases shall be fixed by the State Government.

(4) The Conciliation Officer shall have such powers, as may be prescribed, to effect the payment of the wages, notified in the Official Gazette, to the agricultural worker.

CHAPTER V

DISPUTES

Settlement of agricultural disputes.

24. (1) Where an agricultural dispute exists or is apprehended, the Conciliation Officer may hold conciliation proceedings and shall, for the purpose of bringing about a settlement of the dispute, without delay investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things, as he thinks fit, for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(2) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of conciliation proceedings, the Conciliation Officer shall send a report thereof to the Labour Commissioner together with a memorandum of settlement signed by the parties to the dispute.

(3) If no such settlement is arrived at, the Conciliation Officer shall, as soon as practicable after the close of the investigation, send to the District Collector or the Deputy Commissioner, as the case may be, a full report setting forth the steps taken by him for ascertaining the facts and circumstances, and the reasons on account of which, in his opinion a settlement could not be arrived at:

Provided that in a case where the agricultural dispute relates to an agricultural land situated within the local limits of more than one revenue district, the Conciliation Officer shall send the report to the District Collector or the Deputy Commissioner, as the case may be, in whose jurisdiction the major portion of such land is situated.

(4) If on a consideration of the report referred to in sub-section (3), the District Collector or the Deputy Commissioner, as the case may be, is satisfied that there is a case for reference to an Agricultural Tribunal, he may, by order in writing, refer the agricultural dispute to the said Tribunal for adjudication and where the District Collector or the Deputy Commissioner, as the case may be, does not make such a reference, he shall record and communicate to the parties concerned the reasons therefor.

(5) Where an agricultural dispute has been referred to an Agricultural Tribunal under sub-section (4), the Tribunal shall hold its proceedings expeditiously and shall, as soon as practicable after the conclusion of the proceedings, but not later than thirty days from the date of receipt of the reference by the Tribunal, submit its award to the District Collector or the Deputy Commissioner, as the case may be.

(6) The District Collector or the Deputy Commissioner, as the case may be, shall, within a period of fifteen days from the date of receipt of the award referred to in sub-section (5) cause the same to be published in his office and in the office of the Agricultural Tribunal in such manner as may be prescribed and shall also forward copies of the award to the parties concerned.

(7) An award referred to in sub-section (5) shall, subject to any order of the appropriate Government under section 26, become enforceable on the expiry of ten days from the date of its publication in the manner provided in sub-section (6).

(8) Every memorandum of settlement referred to in sub-section (2) and, subject to any order of the appropriate Government under section 26, every award of an agricultural Tribunal shall be final and shall be given effect to by the parties to the agricultural dispute.

25. An appeal shall lie to the Agricultural Tribunal against any order passed by a Conciliation Officer under section 24 within a period of thirty days from the date of the order appealed against and the decision of the Agricultural Tribunal on such appeal shall be final.

Appeal.

26. (1) Notwithstanding anything contained in section 24, where any agricultural dispute exists or is apprehended, the appropriate Government may, by order in writing and for reasons to be stated therein,—

Refer-
ence of
dispute
by Gov-
ernment.

(a) refer the dispute to the Agricultural Tribunal constituted for the area in which the dispute exists or is apprehended for adjudication; or

(b) decide the dispute itself and pass an award.

(2) Where a dispute is referred to an Agricultural Tribunal under clause (a) of sub-section (1), the provisions of sub-section (5), (6), (7) and (8) of section 24 shall apply as if the reference to the Tribunal were made by the District Collector or the Deputy Commissioner, as the case may be, under sub-section (4) of that section.

(3) The appropriate Government shall cause every award passed by it under clause (b) of sub-section (1) to be published in the Official Gazette and in such other manner as may be prescribed.

(4) An award referred to in sub-section (3) shall be final, shall be given effect to by the parties to the agricultural dispute and shall be enforceable on the expiry of five days from the date of its publication in the Official Gazette.

27. (1) Where the Central Government is of the opinion on a request made in that behalf by the appropriate Government that any agricultural dispute exists or is apprehended and the dispute involves any question of national importance or is of such a nature that more than one State is likely to be interested in or affected by such dispute, and that the dispute should be adjudicated by a National Commission which shall be constituted by the Central Government by notification in the Official Gazette with the consent of two or more States in the manner and on such conditions as may be prescribed, then, the Central Government may, whether or not it is the appropriate Government in relation to that dispute by order, refer the dispute or any matter connected therewith, or relevant thereto, to a National Commission for Adjudication.

Reference
of dispute
to Na-
tional
Commis-
sion for
Adjudica-
tion.

(2) No dispute shall be referred for adjudication under this section where the parties to the dispute agree to refer the dispute for arbitration.

CHAPTER VI

PENALTIES AND PROCEDURE

Penalty.

28. If any person—

- (a) contravenes any of the provisions of this Act or any rule made thereunder; or
- (b) fails to comply with the direction given or requisition made, if any, to him; or
- (c) knowingly makes, or causes to be made, any false statement or representation;

he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to rupees five hundred or with both.

Offences by companies.

29. (1) If an offence is committed under this Act by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business, as well as the Company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

- (a) "company" means any body corporate and includes a firm or other association of individuals whether incorporated or not; and
- (b) "director" in relation to a firm, means a partner in the firm.

Cognizance of offences.

30. (1) No court shall take cognizance of any offence punishable under this Act, save on a complaint made by, or under the authority of, the appropriate Government.

(2) No court inferior to that of a Magistrate of the First Class shall try an offence punishable under this Act.

Enhanced penalty for second and subsequent conviction.

31. If any person who has been convicted of any offence punishable under this Act is again found guilty of an offence involving contravention of the same provisions, he shall be punishable, on a subsequent conviction, with imprisonment for a term which shall not be less than one month but which may extend to six months and with fine which shall not be less than five hundred rupees, but which may extend to two thousand rupees:

Provided that for the purpose of this section, no cognizance shall be taken of any conviction made more than five years before the commission of the offence for which punishment is given.

32. No court shall take cognizance of an offence punishable under this Act unless the complaint is made within six months from the date on which the alleged commission of the offence comes to knowledge of the appropriate Government or an Officer authorised in that behalf.

Limitation of prosecutions.

33. (1) The appropriate Government shall set up an Employment Guarantee Board, tripartite in character, having representatives of the appropriate Government, employers and agricultural workers to supervise the Employment Guarantee Scheme and Social Security Scheme.

Constitution of Employment Guarantee Board.

(2) The Chairman of the Board shall be nominated by the appropriate Government.

(3) The Board shall plan alternative or part-time employment and self employment during lean seasons and natural calamities.

CHAPTER VII

MISCELLANEOUS

34. Every registering authority shall prepare and maintain a Register of agricultural workers residing within the jurisdiction of that authority in such manner, and with such particulars, as may be prescribed.

Register of agricultural workers.

35. Every employer shall maintain such registers and records containing such particulars as may be prescribed.

Maintenance of registers and records by the employer.

36. No civil court shall entertain any suit to set aside or modify any order or decision of any Tribunal, Authority or officer under this Act.

Bar of jurisdiction of civil courts.

5 of 1908.

37. (1) Any Tribunal, Authority or officer, exercising powers under this Act, shall have the same powers as vested in Civil Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

Powers to take evidence, oath, etc.

(a) enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence;

(d) issuing commission for the examination of witnesses; and

(e) such other matters as may be prescribed.

45 of 1900.

(2) Any proceeding before a Tribunal, Authority or officer under this Act, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Code of Civil Procedure, 1908 and for the purposes of section 196 of the Indian Panel Code.

Recovery
of money
due from
employer.

38. (1) Where any money is due to an agricultural worker from an employer under this Act, the agricultural worker himself, or any other person authorised by him in writing in that behalf, or in the case of the death of the agricultural worker, his assignees or heirs, may make an application to the District Collector or Deputy Commissioner, as the case may be, for the recovery of the money due to him and if the District Collector or the Deputy Commissioner is satisfied that the money is so due he shall proceed to recover the amount of that money as if it were an arrear of public revenue due on land:

Provided that every such application shall be made within one year from the date on which the money became due to the agricultural worker from the employer.

(2) Any amount of money due from the employer as contribution to the Fund or a Scheme under this Act shall, if the amount is in arrear, be recovered as if it were an arrear of public revenue due on land.

Act to
have
effect
notwith-
standing
anything
incon-
sistent in
any other
law.

39. The provisions of this Act and the Scheme and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this section:

Provided that where under any such award, agreement, contract of service, custom or otherwise, any agricultural worker was enjoying immediately before the coming into force of this section benefits in respect of any matter, which are more favourable to him than those to which he would be entitled under this Act, the agricultural worker shall be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.

Act not
to apply
to mar-
ginal
farmers

40. Nothing contained in this Act save sections 18, 19, 20, 21, 23, 25, 26 and 39, shall apply in relation to a marginal farmer who does not hold more land than one irrigated hectare or two unirrigated hectares.

Members
of the
Board,
etc. to be
public
servants.

Protec-
tion
against
action
taken in
good
faith.

Prohibi-
tion of
unfair
labour
practices.

41. Every member of the Board set up under sections 13 and 33 and every officer appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

42. No suit, prosecution or other legal proceedings shall lie against the appropriate Government or any Tribunal, Authority or Officer in respect of anything which is done in good faith or intended to be done in pursuance of this Act or the Scheme or any rule or order made under this Act.

43. An employer shall not support or encourage any unfair labour practice resulting in interference with the right of agricultural workers to enrol or continue as union members, discrimination restraint or coercion against any employee because of recognised activity of trade union, and victimization of any employee and abuse of authority in any form.

44. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the form and manner in which application for registering agricultural workers may be made;
- (b) the wage rates and overtime rates which an agricultural worker is entitled to under this Act;
- (c) the form of registers and records to be maintained;
- (d) the powers of the Conciliation Officer;
- (e) the procedure to be followed by the Conciliation Officer and the Agricultural Tribunal;
- (f) the fees to be paid for applications and appeals under this Act;
- (g) the manner of estimating the cash value of the wages paid in kind;
- (h) the procedure to be followed by appropriate Government under sections 24 and 25;
- (i) any other matter which has to be, or may be, prescribed under the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The problems of agricultural labour have been under consideration of the Government for quite some time. Various All-India Agricultural Labour Enquiries, the Rural Labour Enquiry and the All-India Seminar on Agricultural Labour in 1965 highlighted the problems of agricultural Labour e.g. unemployment, under-employment, low wages, lack of amenities, inadequate housing, lack of organisation; resulting in a low standard of living.

Keeping in view the fact that India is a predominantly rural country, with nearly 80 per cent of its population living in rural areas, the problems of agricultural workers assume greater importance because of the sheer number involved. According to the 1971 Census, agricultural labourers in India numbered 47-48 millions against 31.52 millions in 1961. The Rural Labour Enquiry 1974-75, estimated that agricultural labour households form about 86 per cent. of the rural labour households and that the total population covered in the category of agricultural labour was 335 millions, of which about half would be wage earners. The average earnings of wages per man-day for agricultural labour households, as revealed by the 25th round of the National Sample Survey, focus the abysmal poverty of the agricultural workers of our country.

The following laws relate to various aspects of organised and unorganised labour applicable throughout India to a limited extent:—

- (1) Minimum Wages Act, 1948
- (2) Payment of Wages Act, 1936
- (3) Employees' Provident Fund and Miscellaneous Provisions Act, 1952
- (4) Payment of Gratuity Act, 1972
- (5) Industrial Disputes Act, 1947
- (6) The Trade Union Act, 1926
- (7) Workmen's Compensation Act, 1923
- (8) Employees' State Insurance Act, 1948
- (9) Maternity Benefit Act, 1961.

There is, however, no legislation with totality of approach to the problems of agricultural labour, barring the Kerala Agricultural Workers Act, 1974 which is a comprehensive legislation for agricultural workers in Kerala. At present, the main Central Legislation to safeguard the interests of agricultural workers is the Minimum Wages Act, 1948. States and Union territories responsible for the enforcement of this Act have been urged, from time to time, to ensure strict enforcement of the notified minimum wages by strengthening the administrative set up utilising the staff of other Departments, e.g. Revenue, Agriculture, Rural

Development etc., increasing the number of claims authorities and by giving wide publicity to the notified wages. Though some progress has been made, there are, however, frequent reports about the non-payment of notified minimum wages to agricultural workers.

The question of a Central legislation on the conditions of living and of work of agricultural workers was under consideration of the Government of India for quite some time. As early as May 1975, the second meeting of the Standing Committee on Agricultural Labour underlined the need for a Central legislation on the subject. In July, 1975, the 26th Session of the Labour Ministers' Conference commended the Kerala Agricultural Workers' Act, 1974 and suggested adoption of a uniform Central legislation on the subject.

In view of the large number of agricultural workers in India, whose conditions are at present not adequately safeguarded by the existing legislation, enactment of a Central legislation would go a long way in ameliorating the problem of agricultural labour to a considerable extent.

Hence this Bill.

CHITTA BASU

NEW DELHI;
February 12, 1990

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the Constitution of Agricultural Tribunals. Clause 4 provides for appointment of Registration officers. Clause 5 provides for appointment of conciliation officers. Clause 6 provides for the appointment of Inspectors. Clause 10 provides for framing of a Scheme, called Agricultural Workers' Welfare Fund Scheme. Clause 11 provides for the contribution to fund. Clause 13 provides for the Constitution of the Agricultural Workers' Welfare Fund Board. Clause 14 provides for the appointment of officers of the Board. Clause 33 provides for the setting up of Employment Guarantee Boards.

The expenditure involved in these matters will be met from the Consolidated Fund of the States. Expenditure in respect of Union territories will be incurred from the Consolidated Fund of India. A sum of Rs. 15 lakhs is, therefore, likely to be involved as annual recurring expenditure from the Consolidated Fund of India. And, in addition, a sum of Rs. 5 lakhs is also likely to be involved on account of non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 44 empowers the Central Government to make rules for carrying out the purposes of this Bill. The matters in respect of which rules may be made will relate to administrative details only and as such the delegation of legislative powers is, of a normal character.

BILL NO. 20 OF 1990

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990. Short title.

2. In the Eighth Schedule to the Constitution,— Amend-
ment of
Eighth
Schedule.

(a) entries 9 to 15 shall be re-numbered as entries 10 to 16 respectively; and

(b) before entry "10" as so re-numbered, the entry "9 Nepali." shall be inserted.

STATEMENT OF OBJECTS AND REASONS

Nepali is a daughter language of Sanskrit. The Nepali script is definitely Indian, as there is no difference between the Devnagari script used for modern Hindi and the script used for modern Nepal, Bengali and Nepali languages have very close affinity. There are, on a modest estimate, two to three crores of Nepali-speaking people in India. The actual figure might be much higher, as Nepali is one of the dominant languages of the lower Himalayan and sub-Himalayan regions. As a matter of fact, Nepali is more or less *lingua-franca* used throughout the Himalayan region.

It is, therefore, in the fitness of things that the language be added to the Eighth Schedule to the Constitution.

Hence this Bill.

NEW DELHI;
February 12, 1990

CHITTA BASU.

BILL No. 27 OF 1990

A Bill to provide for the payment of minimum wages and for welfare of agricultural workers.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- | | |
|--|---------------------------------------|
| 1. (1) This Act may be called the Agricultural Workers (Minimum Wages and Welfare) Act, 1990. | Short title, extent and commencement. |
| (2) It extends to the whole of India. | |
| (3) It shall come into force at once. | |
| 2. In this Act, unless the context otherwise requires,— | Definitions. |
| (a) 'appropriate Government' means in the case of a State, the State Government and in the case of a Union territory, the Government or the administration, as the case may be, of the Union territory; | |
| (b) 'Authority' means the Authority appointed by the appropriate government under section 3; | |
| (c) 'employer' means any person who employs, whether directly or through another person, whether on behalf of himself or on behalf of any other person, one or more workers for any work connected with the agricultural operations on land, which he owns or is managing for somebody else; | |

(d) 'prescribed' means prescribed by rules made under this Act;

(e) 'wages' means remuneration capable of being expressed in terms of money, which shall, if the terms of the contract of employment, whether express or implied, are fulfilled, be payable to a person in respect of the work done in such employment; and

(f) 'worker' means an agricultural worker, both men and women, who earns wages on daily or any other basis.

3. (1) The appropriate Government shall, by notification in the Official Gazette, establish an Agricultural Workers Welfare Authority.

(2) Every Authority shall have such set-up and such powers as the appropriate Government may determine from time to time.

Establishment of Agricultural Workers Welfare Authority.

Functions of Authority.

4. (1) Every Authority shall,—

(a) maintain land records from village or panchayat level to district level;

(b) maintain a district-wise register of agricultural workers with such particulars and in such manner as may be prescribed;

(c) maintain a district-wise register of employers with such particulars and in such manner as may be prescribed; and

(d) regulate the service conditions of agricultural workers in such manner as may be prescribed.

(2) The Authority shall perform such other functions as may be assigned to it by the appropriate Government from time to time.

Punishment to unregistered employer.

5. (1) No employer shall engage any worker unless he has registered himself with the Authority.

(2) If an unregistered employer engages any person for working on his land, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

6. Every employer shall pay a minimum of rupees seven hundred per month or rupees thirty per day to a worker engaged by him for work on his land and this rate of wages shall be subject to change in accordance with the rise in price index.

7. Every day of the work done by the worker shall be counted for the purpose of calculating the total period of service rendered by the worker in a month or a year.

8. (1) The Central Government shall constitute a fund to be called the Agricultural Workers Welfare Fund for the welfare of agricultural workers.

(2) Such fund shall be distributed to each of the respective Authorities in the ratio of agricultural workers registered in the respective areas.

Minimum Wages to be paid to workers.

Counting of period of service of workers.

Constitution of Agricultural Workers Welfare Fund.

9. There shall be formulated a Scheme by the appropriate Government for providing pension-cum-provident fund facility out of the fund created under section 8 to the workers on their attaining the age of fifty-five years.

Scheme
for pen-
sion-cum-
provident
fund.

10. The dependent of any worker who dies while working shall be paid lumpsum of rupees one thousand or more depending upon the service the worker has rendered and his age, out of the fund created under section 8.

Compen-
sation
for
death
while
working.

11. Every Authority shall submit to the appropriate Government, such periodical returns including a district-wise list of the workers registered with that Authority, within such intervals and with such particulars, as may be prescribed.

Periodi-
cal re-
turns.

12. Every employer shall, before engaging any worker, notify his need of workers to the Authority within whose jurisdiction his land is situated.

Em-
ployer
to notify
his
need of
workers
to Au-
thority.

13. No employer shall reject a worker on the ground that he is not capable of performing a particular job.

Em-
ployer
not to
reject
worker.

14. There shall be set up an Advisory Council by the Central Government, to advise the appropriate Government on the implementation of this Act.

Advisory
Council.

15. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

Power to
make
rules.

STATEMENT OF OBJECTS AND REASONS

At present there is no legal protection for agricultural workers in regard to their working conditions, wage structure, pension and other social security measures and covering of risk. Their condition is becoming worse day by day. Many workers die while during the job and their families are ruined as there is no protection to their families. Considering the vast number of agricultural workers and their contribution to the national wealth, it is high time that this vital section of the society is given all possible legal protection.

Hence this Bill.

NEW DELHI;
February 15, 1990

DHARMESH PRASAD VERMA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government, shall establish an Agricultural Workers Welfare Authority.

Clause 8, provides for the constitution of an Agricultural Workers Welfare Fund.

Clause 4, provides that the Central Government shall set up an Advisory Council to advise the appropriate Government, on the implementation of the Act. The Central Government, shall have to provide financial assistance to Government of the States, to carry out the provisions of the Bill. This Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve recurring expenditure of about rupees forty crores per annum. Non-recurring expenditure of about rupees fifty lakhs is also likely to be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. Since the rules will relate to matters of details only, the delegation of the legislative powers is of a normal character.

BILL No. 22 OF 1990

A Bill to provide for the payment of minimum wages and welfare of agricultural workers.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1 (1) This Act may be called the Agricultural Workers (Minimum Wages and Welfare) Act, 1990.

Short title,
extent
and com-
menc-
ment.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) “authority” in relation to any State or Union territory Administration, means the authority appointed by the appropriate Government or the Administration, as the case may be, for the maintenance of land records from village or panchayat level to district level;

(b) "employer" means any person who employs, whether directly or through another person, whether on behalf of himself or any other person, one or more workers in any work connected with the land, which he owns or is managing for somebody else;

(c) "wages" means remuneration, capable of being expressed in terms of money, which shall, if the terms of the contract of employment, express or implied, are fulfilled, be payable to a person employed in respect of his employment or for work done in such employment;

(d) "worker" means an agricultural worker who is landless and earns daily wages or wages on annual basis for working in agriculture.

Register of workers

3. The authority shall maintain a register of agricultural workers of the area with such particulars and shall maintain the said register in such manner as may be prescribed by rules made under this Act.

Register of Employers.

4. The authority shall maintain a register of such employers of the area who employ agricultural workers, with such particulars and shall maintain the said register in such manner as may be prescribed by rules made under this Act.

Authority to regulate service conditions of workers.

5. The authority shall regulate the service conditions of the workers as may be prescribed by rules made under this Act.

Punishment to unregistered employer.

6. If an unregistered employer engages any person in his land, he shall be liable for prosecution and punishment.

Wages to be paid to the workers.

7. Every employer shall pay a minimum of rupees three hundred per month or rupees ten per day to a worker engaged by him for work at his land, which shall be subject to change in accordance with the rise in price index.

Counting of period of service of worker.

8. Every day of the work done by the worker shall be counted for the purpose of calculating the total period of service put in by the worker in a month or year.

Agricultural workers welfare fund.

9. The Central Government shall constitute a Fund to be called the Agricultural Workers Welfare Fund.

Imposition cess.

10. There shall be levied and collected as a cess, for the purposes of this Act, from each employer, at the rate of fifty paise per acre of land.

11. The proceeds of cess levied and collected under this Act shall first be credited to the Consolidated Fund of India, and the Central Government may, if Parliament by appropriation made by law in this behalf so provides, pay to the Agricultural Workers Welfare Fund, from time to time, from out of such proceeds, after deducting the expenses on collection, such sums of money as it may think fit, for the welfare of workers.

Application of proceeds of cess

12. There shall be formulated a scheme for providing pension-cum provident fund facility to the worker when he becomes old and infirm.

Pension and provident fund facility to worker.

13. The authority shall submit to the Central Government such periodical returns, including a list of the workers of the area registered with the registering authority, within such intervals and with such particulars, as may be prescribed.

Authority to submit periodical returns.

14. Every employer shall, before engaging any worker, notify his need of worker to the registering authority within whose jurisdiction his land is situated.

Employer to notify his need of worker to authority.

15. No employer shall reject a worker on the ground that he cannot perform a particular job.

Employer not to reject worker.

16. There shall be an Advisory Council at Central and State levels, to advise the respective Governments on all problems arising from the implementation of this Act.

Advisory Council.

17. The authority shall give an unemployment allowance, in cash or kind, to every unemployed agricultural worker, whose name appears in the register maintained by the authority for this purpose.

Unemployment allowance to unemployed registered workers.

18. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

The agricultural workers in the country are the worst sufferers so far as wages are concerned. In fact they are not organised and are fully exploited by the land owners who do not pay them even the minimum wages. Moreover, these workers are asked to do all kinds of odd jobs, including domestic jobs after their day long labour in the field. There is no fixed time of work which goes to the advantage of the land owners. The result is that these workers are always underpaid, underfed and unemployed for most of the time of the year. There is no security of job, no old age provision and mostly they die in harness. It is, therefore, necessary that some kind of attention is paid to this lot of unfortunate citizens so that they too have some sort of human existence. Some protection is necessary, for their long service of the land, in the shape of pension and provident fund.

Hence this Bill.

NEW DELHI;

SATYAGOPAL MISRA

December 28, 1989.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND
274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 11018/1 90-RW, dated 13 February, 1990
from Shri Ram Vilas Paswan, Minister of Labour and Welfare to the
Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the abovementioned Bill, has accorded his recommendations under articles 117(1) and 274(1) of the Constitution for introduction of the Bill and under article 117(3) of the Constitution for consideration of the Bill in Lok Sabha.

FINANCIAL MEMORANDUM

With a view to ensuring that the Agricultural Workers Welfare Fund has necessary resources to discharge its functions, this Bill seeks to provide for levy of cess at the rate of fifty paisa per acre of land.

2. The proceeds of the aforementioned cess will be paid into the Consolidated Fund of India. Under clause 11 of the Bill, the Central Government may, if Parliament, by appropriation made by law, in this behalf, so provides, pay to the said fund from time to time, out of such proceeds, after deducting the expenses on collection, such sums of money as the Government may think fit.

3. The collection of the aforementioned cess will involve some expenditure from the Consolidated Fund of India. It is not possible at this stage to estimate the amount of such expenditure.

4. Clause 3 of the Bill provides for the authority to maintain register of workers. Clause 4 of the Bill provides for the authority to maintain register of employers. Clause 9 of the Bill provides for the constitution of Agricultural Workers Welfare Fund. Clause 16 provides for the setting up of an Advisory Council at Central and State levels. Clause 17 provides for the payment of unemployment allowance by the authority to the unemployed registered workers. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees fifty crores per annum.

A non-recurring expenditure of about rupees ten lakhs is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 18 of the Bill provides for the Central Government to frame rules for carrying out the purposes of the Act. Since the rules will relate to matters of detail only, the delegation of the legislative power is of a normal character.

BILL NO. 30 OF 1990

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1990.
(2) It shall come into force at once.
 2. In article 81 of the Constitution, in clause (3), the proviso shall be omitted.
 3. In article 82 of the Constitution, the last proviso shall be omitted.
- Short title and commencement.
- Amendment of article 81.
- Amendment of article 82.

STATEMENT OF OBJECTS AND REASONS

In the context of the intensified family planning programmes of Government, it was considered that not only the allocation of seats in the Lok Sabha to the States and the total number of seats in Legislative Assemblies of the States but also the extent of parliamentary and Assembly constituencies and reservation of seats for Scheduled Castes and Scheduled Tribes as determined on the basis of 1971 census, should be frozen till the year 2000 A.D. Accordingly, the relevant provisions of the Constitution were amended by the Constitution (Forty-second Amendment) Act in 1977. Now that the intensified family planning programme has been abandoned and the reasons for continuing such an amendment does not hold good any more.

With the increase in population and imbalance among different urban Lok Sabha constituencies, it has become necessary to amend the Constitution with a view to do away with the restriction imposed by the Constitution (Forty-second Amendment) Act.

The Bill seeks to provide that readjustment of territorial constituencies in the election to the Lok Sabha should be made on the basis of last preceding census before the general elections to Lok Sabha is held.

NEW DELHI;
December 19, 1989.

BHAJAMAN BEHERA

SUBHASH C. KASHYAP,
Secretary-General.